



# NOHA APPEALS PROCESS GUIDE





## NORTHERN ONTARIO HOCKEY ASSOCIATION

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NORTH BAY, ONTARIO P1A 2A8  
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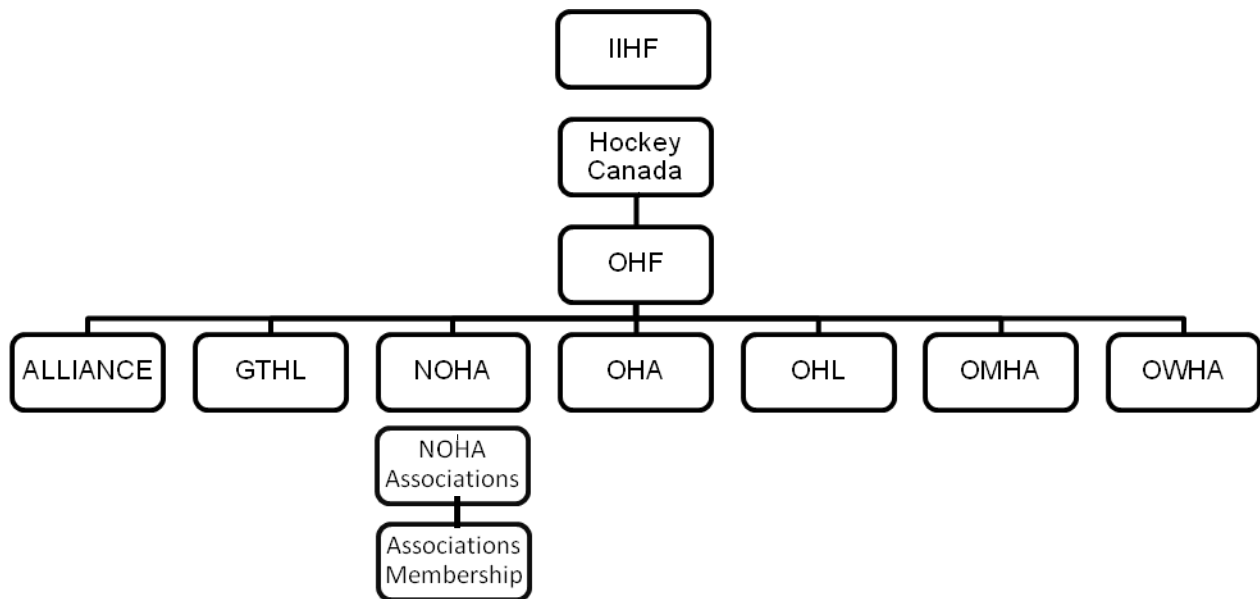
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## STRUCTURE

The Northern Ontario Hockey Association (NOHA), through its affiliation with the Ontario Hockey Federation (OHF), is a member of Hockey Canada – the governing body of amateur hockey in Canada. Hockey Canada is affiliated with the International Ice Hockey Federation.



If you have any questions about this information or how to proceed with an appeal to the NOHA please contact:

### NOHA Office

110 Lakeshore Drive  
North Bay, Ontario P1A 2A8

**Phone:** (705) 474-8851

**Fax:** (705) 474-6019

**Website:** [www.noha-hockey.ca](http://www.noha-hockey.ca)



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### FREQUENTLY ASKED QUESTIONS

#### **Who can appeal to the NOHA?**

The NOHA Appeals Committee shall be the mechanism available to adjudicate disputes amongst NOHA Members.

#### **Association Responsibility**

Each Association, upon disposition of final appeal taken to it, shall advise the parties of their right to appeal to the NOHA Appeals Committee, provide them with a copy of Regulation 13 and, upon request, provide a copy of a notice of appeal to the Appeals Committee.

#### **What decisions may be appealed to the NOHA?**

Any member of the NOHA has the right to appeal against decisions or actions taken against them under any Constitutional or other By-Law, Rules or Regulations or lack of an appropriate By-Law, Rule or Regulation. Upon the receipt of an appeal by the NOHA Executive Director, the President, the Appeals Chairperson and the Executive Director will examine the appeal to determine if the appeal meets the following requirements.

#### **Which matters may be appealed to the NOHA?**

- a) A player release
- b) A suspension of more than seven (7) games (for one infraction) imposed by the NOHA
- c) Any club, team, official or player who has been the recipient of a decision by the President or a Sub Committee of the Executive Board of the NOHA and who feels aggrieved thereby may appeal the decision to the full NOHA Executive Board.
- d) Any club, team, official or player who has been the recipient of a decision by the President or a Sub Committee of the Member Association and who feels aggrieved thereby may appeal the decision to the Appeals Committee.

#### **Which matters may not be appealed to the NOHA?**

- a) A decision by the NOHA Appeals Committee or an Appeal heard by the NOHA Board Directors
- b) Any decision as to the outcome of any game or games
- c) Any decision relating to the classification of teams
- d) Any decision relating to a tournament or exhibition game sanctioning



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### **How do I make an appeal to the NOHA?**

To appeal, a Team, Association, or individual must appeal in writing. The submission is to specify the decision being appealed, or lack of decision, the grounds for appeal and the facts supporting the appeal. It is to be concise and contain all pertinent information regarding the appeal. The appeal must be filed with the NOHA Executive Director and be accompanied by a \$200 appeal fee plus HST (\$26.00) which is non-refundable.

### **What are my time frames for making an appeal?**

- 1) For a player release, an appeal can be filed between the Monday following the OHF Championships and January 9th.
- 2) All other appeals must be filed within seven (7) days of receipt of verbal or written notice of a decision by the NOHA, its President, or Executive.

### **When will my hearing take place?**

Within five (5) days of an appeal being filed with the NOHA Executive Director, the President shall set a date for hearing the appeal. The hearing date will be no more than fifteen (15) days after the filing date unless the appeal is to be heard by the NOHA Board of Directors, in which case the appeal will be heard at the next scheduled NOHA Board of Directors meeting.

### **How long will this whole process take?**

The Committee shall communicate their decision to the NOHA office within 24 hours of the conclusion of the hearing.

When a hearing is completed on a Friday or Saturday, the Committee shall communicate its decision to the NOHA office no later than the first business day of the next week that is not a Saturday, Sunday or other holiday;

Where the time limit for doing anything under this Regulation expires or falls upon a Saturday, Sunday or other holiday, the time so limited extends to the next business day following that is not a Saturday, Sunday or other holiday.

### **Who sits on the Appeal Hearing Panel?**

The Appeals Committee shall consist of the Appeals Committee Coordinator and any other Persons identified by the NOHA Board, who shall sit in panels of three (3) as needed. Those panels shall be appointed by the Appeals Committee Chairperson and/or Vice Chairperson, the NOHA President or the NOHA Executive Director and a decision of two (2) members of a panel shall be final and binding.



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No person shall sit on a committee who is the brother, brother-in-law, spouse, common-law partner, sister, sister-in-law, father, grandfather, mother, grandmother, daughter, son, aunt, uncle, employer, employee, counsel or agent of any appellant or other party to an appeal or any witness whether such witness gives evidence in person or in writing.

### **If I do not like the outcome from the appeal what can I do?**

An appeal may be made to the Ontario Hockey Federation (OHF) from any decision of the NOHA Appeals Committee or the NOHA Board. The Appeal must be filed with the OHF within seven (7) days of the verbal decision of the NOHA. The appeal must be in accordance with the provisions of the Ontario Hockey Federation relating to the adjudication of disputes amongst Member Partners and/or members of a Member Partner.



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### DEFINITIONS

As Amended to May, 2020

#### DEFINITIONS

- **“Association”** means an Association of the NOHA.
- **“Board”** means the Northern Ontario Hockey Association Board of Directors.
- **“Chairperson”** means the Chair of the Committee.
- **“Committee”** means a duly constituted panel of the Appeals Committee.
- **“Coordinator”** means the Coordinator of the Appeals Committee.
- **“NOHA”** means Northern Ontario Hockey Association.
- **“Party”** means the Applicant(s) and the Respondents named in the application, and any Association directly affected by the issues in dispute.



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### NOHA REGULATION 13 — APPEALS

#### 13.1 General

- a) The Appeals Committee shall hear Appeals and make recommendations and decisions in strict accordance with the powers conferred on it in this Regulation and in compliance with the By-laws, Rules, Regulations, and/or Policies adopted or passed by the Board
- b) Each Association, upon disposition of final Hearing or Appeal conducted by it, shall advise the parties of their right to Appeal to the NOHA Appeals Committee and provide them with a copy of the NOHA Appeals Regulation and, upon request, provide the party with NOHA Appeal application package.
- c) Any Team and/or Team Official, Player or Team and/or Association accepted by the NOHA resorting to legal action against the NOHA, without first exercising its right of appeal to the NOHA, OHF or HC Executive, or after such appeal is heard, refuses to abide by the decision, shall be deemed to have withdrawn from further competition within the NOHA.
- d) Where in a Hearing a matter arises that is not expressly covered by the provisions of this Regulation, then such matter shall be resolved in accordance with the rules of natural justice and in order to do justice between the parties in dispute.
- e) An appeal may be made to the Ontario Hockey Federation (OHF) from any decision of the NOHA Appeal Committee. The Appeal must be filed with the OHF within seven (7) days of the verbal decision of the NOHA. The Appeal must be in accordance with the provisions of the Ontario Hockey Federation relating to the adjudication of disputes amongst Member Partners and/or members of Member Partners. The NOHA is to supply all parties of an NOHA Appeal with the OHF Appeals Application form and information.

#### 13.2 Appeals Committee

- a) The President of the NOHA shall appoint an Appeals Committee each year. The Chairman and Vice Chairman will be appointed by the NOHA President.
- b) The Chairman and Vice Chairman of the Appeals Committee shall be either:
  - One of the NOHA Officers or;





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- One of the NOHA Board of Directors or;
  - A designate selected by the President of the NOHA who has had no Membership, Executive status or interest in any of the Associations or Leagues of the NOHA.
- c) The Appeals Committee shall consist of the Appeals Committee Coordinator and any other Persons identified by the NOHA Board, who shall sit in panels of three (3) as needed. Those panels shall be appointed by the Appeals Committee Chairman and/or Vice Chairman, the NOHA President or the NOHA Executive Director and a decision of two (2) members of a panel shall be final and binding.
- d) Each Council Director of the NOHA shall designate Persons who may serve as Appeals Committee members when called upon by the Chairman and/or Vice Chairman of the Appeals Committee, the NOHA President or the NOHA Executive Director.
- A person nominated by a Council Director must have no Membership, Executive status or interest in any of the Associations or Leagues within the NOHA.
- e) No person shall sit on an Appeals Committee who is the brother, brother-in-law, spouse, common-law partner, sister, sister-in-law, father, grandfather, mother, grandmother, daughter, son, aunt, uncle, employer, employee, counsel or agent of any appellant or other party to an appeal or any witness whether such witness gives evidence in person or in writing.
- f) No person designated to the Appeals Committee by a Council Director shall be eligible to sit on a dispute matter or Hearing in which he or she has an interest.
- g) The Appeals Committee shall sit and finally determine all matters designated as standing issues; and shall sit to decide or recommend, as directed, any matter referred to it by the Board.

### **13.3 Matters that may be Appealed**

- a) The Board of the NOHA may designate from time to time matters that are standing issues for final determination by the Appeals Committee and shall include:
- Appeal of a decision of the NOHA Board of Directors or Sub-Committee of the Executive Board.
  - Appeal of a decision of the NOHA President.



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- Appeal of a final decision of an Association or League other than a matter referred to in R.13.3.e.
  
- b) The Board or Officers of the NOHA may from time to time refer matters to be referred to the Appeals Committee, requesting a recommendation or decision upon such terms or conditions as the Board directs. No decision-making power can be referred that would have the effect of altering or amending the Constitution of the NOHA or the jurisdiction of its Member Associations.
  
- c) Any member of the NOHA has the right to appeal against decisions or actions taken against them under any Constitutional or other By-Law, Rules or Regulations or lack of an appropriate By-Law, Rule or Regulation. Upon the receipt of an appeal by the Executive Director, the President, the Appeals Chairman and the Executive Director will examine the appeal to determine if the appeal meets the following requirements.
  
- d) Notwithstanding the provisions set forth in the NOHA Constitution, By-Laws and Regulations, a member may ask the Appeal Committee for special dispensation from the Constitution, By-laws, and Regulations. Any decision as to what qualifies for special dispensation shall rest solely with the Appeals Committee in its absolute unfettered discretion, and the decision based on its own merits of the Appeals Committee on special dispensation shall be final and binding upon all parties.
  
- e) Matters that may be appealed
  - A player release
  - A suspension of more than seven (7) games (for one infraction) imposed by the NOHA.
  - Any Association, Team, Official or Player who has been the recipient of a decision by the President or a Sub-Committee of the Executive Board of the NOHA and who feels aggrieved thereby may appeal the decision to the full NOHA Executive Board.
  - Any Association, Team, Official or Player who has been the recipient of a decision by the President or a Sub-Committee of the Member Association and who feels aggrieved thereby may appeal the decision to the Appeals Committee.
  
- f) Matters that may not be appealed to the NOHA.
  - A decision by the NOHA Appeals Committee or an appeal heard by the NOHA Board of Directors.



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- Any decision as to the outcome of any game or games
- Any decision relating to the classification of teams
- Any decision relating to a tournament or exhibition game sanctioning
- Any suspension pursuant to the OHF Minimum Suspension list
- Any other suspension of fewer than seven games

If a supplemental suspension is assessed in addition to the minimum suspension and the total of the suspension is beyond seven games, then the supplemental suspension is appealable.

g) Any appeal to the NOHA involving an allegation of Harassment or Abuse shall be referred by the NOHA to a Fact Finder and shall not be heard by the Appeals Committee until the Fact Finder's report and a final decision on the matter has been received and rendered by the NOHA.

h) The time allowed for an appeal is as follows:

- For a player release an appeal can be filed between the Monday following the OHF Championships and January 9th.
- All other appeals must be filed within seven (7) days of receipt of verbal or written notice of a decision by the NOHA, its President, Executive or Member Association.

### 13.4 Appeal Application Process

a) An appeal shall be submitted via personal service, courier or email from the Appellant to the NOHA Office no later than seven (7) days, or the first business day following, if such date falls on a Saturday, Sunday or Statutory holiday, from the date the decision sought to be appealed by sent to the appellant by the Member Association.

b) An Appeal submission shall only be commenced by the submission of a completed NOHA Appeal Application Form. Such form shall:

- i) Contain a completed NOHA Appeal Application Form;
- ii) be signed by the appellant. An application submitted on behalf of an Association/Team must be signed by at least one of the signing Officers of the relevant Association/Team;
- iii) be specific, describe the decision being appealed, the grounds for the appeal and the facts supporting the appeal. Pertinent documents, if any from the original Appeal, must be attached;



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- iv) be accompanied by an Appeal application fee, as determined annually by the NOHA Board of Directors, in cash, money order or by cheque made payable to the Northern Ontario Hockey Association; if submission is by email it must have a copy of payment including courier tracking number with payment arriving no later than two (2) business days following the submission deadline.
- c) Before proceeding with an appeal, the President, Appeals Chairman and/or Vice Chairman and the Executive Director must determine if all the proper filing procedures have been followed.
- d) Should it be determined that the proposed Appeal does not qualify for an appeal hearing, the Appeal Application Fee will be returned to the appellant. This determination shall be final and binding subject only to such further rights of appeals as may be available under the Articles, By-Laws, Rules, Regulations and/or Policies of the NOHA.
- e) Should it be determined that the proposed appeal qualifies for an Appeal hearing they shall proceed in the following manner:
- i) an Appeal hearing shall be set for a date no later than fifteen (15) days after the date that it is determined that an Appeal hearing shall proceed;
  - ii) if it is not practicable to schedule an Appeal hearing within fifteen (15) days, a hearing date may be set beyond the fifteen (15) day period, and such does not constitute grounds for an Appeal to the OHF due to “improper procedures”;
  - iii) the NOHA Office shall notify all parties of the Appeal not less than five (5) days before the scheduled date for the Appeal. The Notice of Appeal shall include:
    - 1. a statement of the issue(s) to be considered, the time and place of the Appeal hearing;
    - 2. a statement to advise each party that if a party does not attend, the Appeal hearing may proceed in the absence of the party without further notice; and,
    - 3. a copy of the material provided by the Appellant.
- f) All parties presenting evidence must submit written evidence to the NOHA Executive Director three (3) days prior to the Hearing.
- g) Both sides in the Hearing must provide a list of witnesses who are presenting evidence, to the NOHA Executive Director three (3) days prior to the Hearing dates. These will be the only parties allowed into the Hearing.



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h) The applicant will be allowed to complete their submission to the Committee without interruption. Committee members then through the Chairman will be permitted to ask questions.

i) New evidence may be allowed if this evidence was not available at the time of the written submission. The onus is on the introducer of new evidence to prove that this evidence was not reasonably available for the original decision.

### 13.5 Appeal Hearing Procedure

a) The Hearing shall be open to the parties who are presenting evidence.

b) At no time shall any party to the Hearing be excluded from the Hearing while it is in progress unless for gross misconduct during the Hearing.

c) The Chair may take such action or give such direction as is necessary to maintain order at the Hearing.

d) A party to the Hearing may:

- Be represented by counsel or an agent;
- Call and examine witnesses and present arguments and submissions; and
- Conduct cross-examination of witnesses as may be reasonable in the circumstances.

e) The Panel shall:

- Permit the parties to present their cases in accordance with due process and the rules of natural justice; and
- Inquire of all parties as to the possible impact of any decision or ruling for consideration as it sees fit.

f) The Chair may add any person or Association as a party to the Hearing that they determine might be materially affected by the resolution of the issue before the Panel. The timing and method of notifying the parties shall be at the discretion of the Chair.



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- g) The Panel may receive such evidence as is relevant and considered to be reliable and trustworthy.
- h) There will not be any verbatim minutes taken at any Hearing. Any participant who wishes to take notes can do so. There are no recording devices allowed in the Hearing. This is not a Court of Law.
- i) The Panel may receive such evidence as is relevant and considered to be reliable and trustworthy provided that no witness may give evidence who did not give evidence at the Appeal hearing giving rise to the NOHA Appeal. No written evidence can be given which was not given at the Hearing unless:
- The evidence was not discoverable by reasonable diligence before the end of that hearing; and
  - The evidence is wholly believable; and
  - The evidence is practically conclusive of an issue in the NOHA Appeal Hearing. The onus shall be on the parties seeking to introduce such evidence to satisfy the Panel hearing the matter that such evidence should be received.
- j) That any Player under the age of 18 years old must be accompanied by an advocate.
- k) Any On-Ice Officials attending an Appeal Hearing must be accompanied by an advocate from the Officials program unless accompanied by Legal Counsel.
- l) The Chairman and/or Vice Chairman of the Committee may add as a party to a Hearing any person or Association that he/she determines might be affected by the resolution of the issue before the Committee.
- m) In rendering a final decision, the Committee may:
- Allow or dismiss the appeal in whole or in part
  - Vary the decision appealed from/by
    - o Increasing or decreasing fines and/or suspension
    - o Issuing an order prohibiting the continuation of any matters dealt with in the appeal.
    - o Assess, in a set amount, all or any part of the costs of the appeal against one or more of the parties.



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- n) A Hearing may be adjourned from time to time provided that no Hearing shall be extended beyond fifteen (15) days from the date the application and fee were received by the NOHA office, unless the Panel of the Committee hearing the matter decides that such an adjournment is necessary in order to do justice between the parties in dispute.
- o) Any application may be resolved on consent of all parties, prior to, or during a Hearing before the Committee and the Committee shall issue such order as may be necessary to give effect to such consent, provided it is not inconsistent with any policy of the Board.
- p) Although the Appeals Committee shall sit in panels of three (3) Members:
- i) if 15 minutes or more after the Appeal hearing is scheduled to commence, only two (2) Members are present, those two (2) Members may decide to proceed with the hearing. The power and authority of that Panel will be the same as if three (3) Members were present.
  - ii) once convened, if any Member of the Panel is unable to continue, the two (2) remaining Members may decide to proceed with the Appeal hearing. The power and authority of that Panel of the Appeals Committee will be the same as if three (3) Members were present
- q) If only two (2) Members of the Panel of the Appeals Committee hearing the matter do not agree on a decision on the matter placed before them, the matter shall be considered a no decision. In this situation, the Appellant has the right to request a rehearing, which shall be heard by a new Panel. The request for a rehearing shall be forwarded to the NOHA Office within five (5) days after the NOHA Appeal Hearing. Subject to the approval by the Appeals Committee, the rehearing shall be scheduled within eight (8) days.
- w) Where on evidence produced the NOHA Board of Directors or Officers concludes that there has been a contravention of any Order or decision made by the Appeals Committee, they may:
- Suspend or restrict the privileges extended through the NOHA to the party in default;
  - Assess the costs of the enforcement Hearing against the defaulting party;
  - Impose a monetary penalty on the defaulting party
  - Request the parties to appear before the NOHA Board of Directors;
  - Any combination of above.



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- x) Each Member agrees to be and shall be bound by decisions of the NOHA Appeals Committee and agrees to take all such steps as are necessary within its organization to ensure compliance with such decisions.

### 13.6 Enforcement

- a) Where on evidence produced the NOHA Board of Directors or Officers concludes that there has been a contravention of any Order or decision made by the Appeals Committee, they may:

- Suspend or restrict the privileges extended through the NOHA to the defaulting party;
- Assess the costs of the enforcement Hearing against the defaulting party;
- Impose a monetary penalty on the defaulting party
- Request the parties to appear before the NOHA Board of Directors;
- Any combination of above.

- b) Each Member shall be bound by decisions of the NOHA Appeals Committee and agrees to take all such steps as are necessary within its organization to ensure compliance with such decisions.

### 13.7 Decision(s) of the Appeals Committee

- a) At the conclusion of an Appeal Hearing, the Panel may:
- i) allow or dismiss the Appeal Application in whole or in part, and make such order as is just in the circumstances and consistent with the Articles, By-Laws, Rules, Regulations and/or Policies of the NOHA and the relevant Member. If the decision involves two Members with inconsistent rules then the decision must be consistent to the NOHA, OHF and Hockey Canada Articles, By-Laws, Rules, Regulations and/or Policies;
  - ii) increase based on new evidence accepted by the hearing panel, decrease or leave unchanged any Suspension or sanction against the appellant. Such decision must be in accordance with the Articles, By-Laws, Rules, Regulations and/or Policies of the NOHA and the relevant Member. If the decision involves two Members whose relevant Rules are inconsistent, the decision must be consistent with the Articles, By-Laws, Rules, Regulations and/or Policies of the NOHA, OHF and Hockey Canada.





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- iii) assess, in a set amount, all or any part of the costs of the Appeal against one or more of the parties, as long as the assessment does not exceed the application fee received for the Appeal;
  - iv) adjourn the disposition of the Appeal Application provided that written notification of the decision is delivered to all parties within 10 days of the adjournment.
- b) The Committee shall communicate their decision to the NOHA Office within 24 hours of the conclusion of the Hearing.
- c) When a Hearing is completed on a Friday or Saturday, the Committee shall communicate its decision to the NOHA office not later than the first business day of the next week that is not a Saturday, Sunday or other holiday.
- d) Where the time limit for doing anything under this Regulation expires or falls upon a Saturday, Sunday or other holiday, the time so limited extends to the next business day following that is not a Saturday, Sunday or other holiday.
- e) The decision of the Appeals Committee shall be final and binding on all parties, subject only to such further rights of Appeal as may be available under the Constitution, By Laws, Regulations and Rules of the Ontario Hockey Federation.