

APPENDIX A: BCLA APPEALS POLICY AND PROCESS

Definitions:

“Appeal” refers to the Appeal conducted under this process;

“Appeal Board” refers to the Appeal Committee;

“Appellant” refers to the member appealing a decision;

“Hearing” refers to the hearing conducted under this process;

“May” refers to a choice to act or not;

“Member” is defined in the BCLA By-Law II: Membership.

“Notice of Appeal” refers to the application filed in accordance with this process;

“Party” or “Parties” refers to any person affected and participating in the Appeal;

“Respondent” refers to the individual or body whose decision is being appealed.

“Working Days” refers to BCLA offices hours and if a holiday falls within this time frame then the time is extended to the next day that the BCLA office is open.

General Powers

1. The Appeal Board has the power to manage its own processes and may produce rules respecting practice and procedure to enable the unbiased and timely resolution of the matters before it.
2. Without limiting section (1), the Appeal Board may make rules as follows:
 - a) Relating to holding of pre-hearing conferences which might include confidential conferences, requesting parties to attend a pre-hearing conference;
 - b) With respect to receipt and disclosure of documentation;
 - c) Regarding the exchange of records and documents by parties;
 - d) Regarding written submissions by parties;
 - e) Specifying the form of application and time within which and how the party must respond to the application;
 - f) Regarding service of the documents;
 - g) Regarding each party providing a mailing address and/or email address and/or fax number for service;
 - h) Regarding procedures for preliminary or interim matters;
 - i) Regarding any additional parties to an application;
 - j) Regarding adjournments;
 - k) Regarding the joining of applications;
 - l) Regarding witnesses to an application;
 - m) Regarding non-compliance with the Appeal Boards rules;
 - n) Regarding access and restrictions to documents;
3. Any changes to the rules in this section may be made at the Annual General Meeting of BCLA.
4. The Appeal Board is to ensure that these rules of practice and procedure are available to the Members and public.

Withdrawal or settlement of application

5. The applicant must inform the Appeal Board if all or part of the issue has been settled. Upon receipt of settlement the Appeal Board must inform all parties that the application has been altered or withdraw.

Service of documents

6. Anyone who wishes to appeal must provide to the BCLA Office written notice by fax, email and/or mail and payment of \$500.00 no later than seventy-two (72) hours after receipt of the decision. If notice is provided by fax and/or email, the payment in the amount of \$500.00 must be received by the BCLA Office within seventy-two (72) hours of the written notice.
7. The Appeal Board will provide any and all documents received from the applicant to any person named in the application by personal service which includes, ordinary mail, fax, and/or email to the last known address. That person will be able to respond to the materials.

Grounds for Appeal

8. An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the following:
 - 8.1 making a decision for which there was no authority or jurisdiction as set out in governing documents;
 - 8.2 failing to follow procedures as laid out in the bylaws or approved regulations of the BCLA;
 - 8.3 making a decision that was influenced by bias;
 - 8.4 failing to consider relevant information and/or taking into account irrelevant information in making the decision;
 - 8.5 exercising its discretion for an improper purpose; and/or
 - 8.6 making a decision that was unreasonable.
 - 8.7 Within three (3) business days of receiving notice of an appeal, the BCLA Executive Director will forward the notice of appeal to the Chair of the Appeals Committee.
 - 8.8 The Chair of the Appeals Committee shall review the information submitted under clause 6 and 7 within three (3) business days of receipt and, if upon preliminary view, the appeal appears to have no grounds, the Chair shall notify the appellant of that opinion, giving the appellant a reasonable opportunity to make further submissions before making a final decision. The final decision shall be made by the Chair of the Appeals Committee within three (3) business days of receipt of the further submissions. If the final decision is that the appeal has no grounds, the appellant shall be notified of that decision, in writing, with reasons, and the appeal shall be dismissed, and the \$500.00 will be refunded.

Notice of Appeal

9. The Notice of Appeal must include the following:
 - a) Contain the applicants name, address, phone number(s) and e-mail address;
 - b) Identify the decision that is being Appealed;
 - c) State why the decision should be changed;
 - d) State the outcome requested; and
 - e) Must include the required fee.

Time Limits

10. The Notice of Appeal must be filed in the BCLA office no later than 72 hours after the decision being made.
11. The commencement of an Appeal does not operate as a stay or suspend the decision being appealed.
12. The Chair or delegate shall hold an Appeal hearing within fourteen (14) working days of receipt of the Notice of Appeal. If, for some unforeseen reason, the President or his/her designate may extend this timeline.

Appeal Board members

13. The BCLA Vice President - Administration will appoint a minimum of 25, no more than 30 Appeal Board members by January 1 each year.
14. The Chairs of the Senior, Minor and Field Directorates will appoint Appeal Members from their executives and/or commissioners.
15. Each hearing will have a Chair and three to seven panel members. The panel members will have the jurisdiction of, and may exercise and perform the powers and duties provided to them under this bylaw.
16. The decision of a majority of the panel members constitutes the decision of the panel.
17. Appeal Board members must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member.

Disclosure of Documents

18. Appeal Board members and/or parties to the Appeal must not disclose or be compelled to disclose any documentation or statements made by a party in the dispute unless the matter proceeds to criminal court.

Summary Dismissal

19. At any time once an application has been filed, the Chair, Vice President – Administration and Finance, Senior/Minor and/or Field Directorate Chair may dismiss all or part of it if the Appeal Board determines that:
 - a) the application is not within the jurisdiction of the board;
 - b) the application was not filed within the applicable time limit; and
 - c) the application was made in bad faith or filed for an improper purpose or motive.
20. If the Appeal Board dismisses all or part of the application, the chair must inform all parties of the decision in writing within seven (7) business days and the reason for that decision.

Witnesses

21. A party to the application may provide a witness statement in writing if that witness is relevant to the issue(s) in the application.
22. The Appeal Board and a party to the application have the right if necessary to ask questions to the witnesses for a full and fair disclosure of the matters relevant to the hearing.
23. The Chair may limit the examination of the witness if he/she are satisfied that the questions have been answered.

Recording of hearing

24. The Chair or designate will take minutes of the hearing. These minutes will be forwarded to the BCLA Executive Director to keep on file.

Form of hearing of application

25. The hearing may be in any combination of written, telephone, and in person.

Adjournments

26. The Chair has the right to adjourn a hearing if required and provide reasons for the adjournment.
27. The Chair must ensure that the adjournment does not impact any of the parties in a negative way.

Evidence

28. The Chair may receive and accept information that it considers relevant, necessary and appropriate to the matter that is being appealed.

Decisions

29. The Appeal Board may attach terms or conditions to a decision.
30. The Appeal Board's decision is effective on the date on which it is issued, unless otherwise specified by the Appeal Board.
31. The Chair must communicate the Committee's final decision in writing within seven (7) business days to the parties affected by the decision, and give reasons for the decision. A copy of this letter must be sent to the BCLA Executive Director to keep on file.
32. If the Appellant is successful, the cost of the Appeal (\$500.00) will be returned to the issuing person. If the Appellant is not successful, the money is then forfeited. There shall be no returning of moneys should the Appeal be upheld.

Review by Level of Appeal

33. If a further Appeal is warranted by anyone with a vested interest to the BCLA Executive Committee level, then a further \$500.00 will be required and a written Appeal to the Executive Board. If notice is provided by fax and/or email, the payment in the amount of \$500.00 must be received by BCLA within seven (7) business days of written notice.
34. The Notice of Appeal must be commenced within three (3) working days of the decision from the Directorate Appeal hearing. If, for some unforeseen reason, the President or his/her designate may extend this timeline.

Immunity for Appeal Board

35. The Chair, Appeal Board members or other officer who makes a decision in an application within their performance of a statutory duty or in the exercise of statutory power is not subject to legal proceedings.