

APPENDIX A: BCLA APPEAL POLICY

Purpose

1. BCLA is committed to providing an environment in which all Individual Registrants and Member Associations are treated with respect and fairness. BCLA provides Individual Registrants and Member Associations with this appeal policy to enable fair and expedient appeals and challenges of certain decisions made by BCLA and any of its member governing bodies.

Grounds for Appeal

2. An appeal may only be heard if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the following:
 - a) Making a decision for which there was no authority or jurisdiction as set out in governing documents;
 - b) Failing to follow procedures as laid out in the bylaws or approved policies of the BCLA;
 - c) Making a decision that was influenced by bias;
 - d) Failing to consider relevant information and/or taking into account irrelevant information in making the decision;
 - e) Exercising its discretion for an improper purpose; and/or
 - f) Making a decision that was unreasonable.

Jurisdiction

3. An appeal to the Appeal Committee can only be made once all the complaints, disciplinary, or appeal processes from a BCLA member governing body have been exhausted.
4. The Appeal Committee has the jurisdiction 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, including but not limited to:
 - a) Holding pre-hearing conferences which might include confidential conferences, requesting parties to attend a pre-hearing conference;
 - b) Written submissions by parties;
 - c) Exchange of records and documents by parties;
 - d) Procedures for preliminary or interim matters;
 - e) Any additional parties or witnesses to an application;
 - f) Adjournments;
 - g) Joining of applications;
 - h) Non-compliance with the Appeal Committee rules; and
 - i) Access and restrictions to documents.
5. Any changes to the rules in this section may be made at an Annual General Meeting or Special Session of BCLA or upon approval by the BCLA Board.
6. The BCLA must ensure that these rules of practice and procedure are available to the members and public.

Notice of Appeal

7. The Notice of Appeal must include the following:
 - a) Contain the appellants 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 and the grounds (see BCLA Appeal Policy, clause 2) for why the appeal is being made;
 - d) State the outcome requested;
 - e) Must include the required \$500.00 fee; and
 - f) Include any relevant documentation.

Launching an Appeal

8. Anyone who wishes to appeal must provide to the BCLA Executive Director written notice and payment of \$500.00 no later than seventy-two (72) hours after receipt of the decision from the BCLA member governing body.
9. The notice of appeal (see BCLA Appeal Policy, clause 7) should be submitted to the BCLA Executive Director, who upon review of the notice of appeal, will send confirmation of receipt to the appellant.

Composition

10. A Chair for the Appeal Committee will be selected by the BCLA Executive Director in consultation with the Vice President – Finance & Administration from the Appeal Committee Membership List (see BCLA Appeal Policy, clause 17).
11. Within five (5) business days of reviewing the notice of an appeal, the BCLA Executive Director will forward the notice of appeal to the Chair of the Appeal Committee who will then determine the merit of whether an Appeal Committee should be formed. The Chair of the Appeal Committee may dismiss all or part of the appeal if they determine that the appeal does not meet grounds as defined in BCLA Appeal Policy, clause 2;
12. The Chair of the Appeal Committee or designate shall review the notice of appeal within five (5) business days of receipt.
13. If upon preliminary view, the appeal appears to have no grounds, the Chair of the Appeal Committee or designate 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 whether an issue goes before an Appeal Committee shall be made by the Chair or designate within five (5) business days of receipt of the further submissions.
14. 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.
15. If the Chair of the Appeal Committee or designate determines an Appeal Committee is warranted, that Appeal Committee will be convened within thirty (30) business days.
16. If there are grounds for the formation of an Appeal Committee, the Executive Director in consultation with the VP Finance & Administration or designate shall select members for an Appeal Committee from the annual Appeal Committee Membership List.
17. The BCLA Vice President Finance & Administration will appoint a minimum of twenty-five (25), potential Appeal Committee members by January 1 each year to the Appeal Committee Membership List. Consultation with the Chairs of the Senior, Minor and Field Directorates regarding potential members to appoint to the Appeal Committee Membership List will be undertaken.
18. Each Appeal Committee hearing will have a Chair and three (3) to seven (7) members. The Appeal Committee members will have the jurisdiction of and may exercise and perform the powers and duties provided to them under this policy.
19. In the case of an appeal hearing necessary under BCLA General Operating Policy, Section 14.03.2 (Harassment) Policy, the Appeal Committee should make every effort to be comprised of a minimum 51% of the same gender as the appellant.
20. The decision of a majority of the members constitutes the decision of the Appeal Committee.

Natural Justice and Duty to Act Fairly

21. This policy follows the principles of natural justice aimed to provide Individual Registrants and Member Associations with a fair hearing.
22. All Individual Registrants and Member Associations have the right to and/or must be provided the right to:
 - a) A process free of bias: the members of the Appeal Committee are unbiased, in that they are impartial and unprejudiced, and are reasonably perceived to be unbiased;
 - b) Prior notice: advance access to relevant information that identifies the allegations and contains sufficient information for respondents to respond to the allegations and participate meaningfully in the decision-making process.
 - c) Fair hearing: the respondent is afforded a timely and reasonable opportunity to participate in the hearing, and may either represent themselves, or be represented by a person of their choosing and the members of the Appeal Committee genuinely consider the respondent's submissions in making their decision.

Confidentiality

23. Members of the Appeal Committee will ensure that everything disclosed to them during the course of their work, including but not limited to the facts of the case, the contents of their deliberations, and the decisions taken, remains confidential.

Limitation Period for Appeal

24. As per BCLA Appeal Policy, clause 8, the notice of appeal must be filed with the BCLA Executive

Director no later than seventy-two (72) hours after the decision being made by the BCLA member governing body.

25. The commencement of an appeal does not operate as a stay or suspend the decision being appealed.
26. The Appeal Committee shall hold an appeal hearing within thirty (30) business days of their receipt of the notice of appeal.
27. If, for some unforeseen reason or extenuating circumstances, the Vice President Finance & Administration may extend any Appeal Committee related timelines.

Summary Dismissal

28. At any time once an application has been filed, the Chair of the Appeal Committee, may dismiss all or part of it if the Appeal Committee determines that:
 - a) the application is not within the jurisdiction of the Appeal Committee;
 - 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.
29. If the Appeal Committee 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.

Recording of Hearing

30. The Chair or designate of an Appeal Committee will record the hearing. This recording will be forwarded to the BCLA Executive Director to keep on file.

Form of Hearing of Application

31. The hearing may be in any combination of in person or virtual.

Witnesses

32. A party to the application may provide a witness statement in writing if that witness is relevant to the issue(s) in the application.
33. The Appeal Committee 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.
34. The Chair may limit the examination of the witness if the Chair is satisfied that the questions have been answered.

Evidence

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

Adjournments

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

Decisions

38. The Appeal Committee may attach terms or conditions to a decision.
39. The Appeal Committee's decision is effective on the date on which it is issued, unless otherwise specified by the Appeal Committee.
40. 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.
41. 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 (e.g., appeal denied), the money is then forfeited.

Review by Final Level of Appeal

42. If a further appeal is warranted by anyone with a vested interest, it can be made to the BCLA Board. A further \$500.00 will be required and a written appeal to the BCLA Board.
43. The notice of appeal to the BCLA Board and the payment in the amount of \$500.00 must be received by the BCLA Executive Director within seven (7) business days of decision from the Appeal Committee.
44. The same timelines as an Appeal Committee process apply to the appeal being made to the BCLA Board.

Reinstatement

45. If an individual or association is seeking reinstatement, permission to be reinstated must be sought from an Appeal Committee.

Immunity for Appeal Committee

46. The Chair of the Appeal Committee, Appeal Committee members, BCLA Executive, or other officers who make a decision in an appeal application within their performance of a statutory duty or in the exercise of statutory power is not subject to legal proceedings.