



Chapter 2.8 – Bylaws Board of Appeal of Classification

April 2015



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1st Revision GB: 12 December 2010

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3rd Revision GB: June 2013

4th Revision GB: August 2013

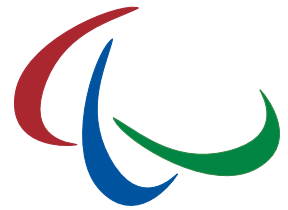
Editorial amendment to article 3.4 for clarification purposes: April 2015

1 Introduction

- 1.1 The term “Appeal” as used in these Regulations refers to the procedure by which a formal objection to the manner in which Athlete Evaluation and/or Classification procedures have been conducted is submitted and subsequently resolved.
- 1.2 The term “Appellant” as used in these Regulations refers to the party submitting the Appeal on behalf of the athlete.
- 1.3 The term “Respondent” used in these Regulations refers to the representatives of the International Federation governing the respective sport, responsible for the procedures and decision which are being appealed to.

2 Jurisdiction

- 2.1 The IPC shall be responsible for establishing the Board of Appeal of Classification (“BAC”) in accordance with these Regulations.
- 2.2 The BAC shall have jurisdiction over relevant Appeals for sports for which the IPC acts as International Federation and in respect of all Appeals for all sports submitted during Paralympic Games. The BAC shall also have jurisdiction in respect of the resolution of disputes that involve allegations of Intentional Misrepresentation during Athlete Evaluation made pursuant to the Classification Regulations of a sport for which IPC acts as International Federation or during IPC Recognised Events.
- 2.3 The BAC may be made available for Paralympic sports not governed by the IPC, subject to an agreement with the respective International Federation governing that sport.



3 Scope of appeal and entitlement to appeal

- 3.1 The BAC shall have jurisdiction in respect of Appeals made arising from Athlete Evaluation and/or Classification decisions in order to ensure that all appropriate Athlete Evaluation, Sport Class and/or Sport Class Status allocation procedures have been followed fairly.
- 3.2 If a National Paralympic Committee or National Federation believes that there have been procedural errors made in respect of the allocation of a Sport Class and/or Sport Class Status following Protest, it should submit a Notice of Appeal to the BAC. A Notice of Appeal should be submitted in a standard format that shall be made available by the IPC.
- 3.3 The BAC shall have no power to modify, alter or otherwise change any Athlete Evaluation, Sport Class and/or Sport Class Status decision, for example by allocating an Athlete a new Sport Class and/or Sport Class Status.
- 3.4 An Appeal shall only be brought by the Athlete's respective National Paralympic Committee or National Federation, whichever is the member organisation of the IF (i.e., for sports governed by the IPC the NPC must submit the appeal, for sports not governed by the IPC the National Federation which is the member of the respective IF shall submit the appeal).

4 Pre-hearing procedures and appeal submission

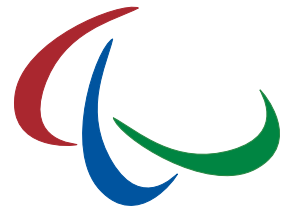
- 4.1 A Notice of Appeal shall be submitted within 15 calendar days of the decision from which the Appeal arises.
- 4.2 A Notice of Appeal shall:
 - 4.2.1 Specify the party making the Appeal (the Appellant);
 - 4.2.2 Provide the name, nation and sport of the Athlete whose Evaluation and/or Classification is the subject of the Appeal;
 - 4.2.3 Identify the decision being appealed from, by attaching a copy of the decision (if written) or briefly summarising it;



- 4.2.4 Specify the grounds for the Appeal and in particular details of the error in procedure that is alleged to have taken place;
 - 4.2.5 Indicate what, or that all, remedies have been used to resolve the case.
 - 4.2.6 Identify all documents, fact and expert witnesses, and other evidence to be offered in support of the Appeal; and
 - 4.2.7 To the extent possible, identify the person or persons responsible for the decision being appealed against ("the Respondent")
- 4.3 Appeals shall be accompanied by a fee of €300.00 each. Proof of payment of the Appeal fee must be included in the Notice of Appeal.
- 4.4 All Notices of Appeal shall be submitted to the IPC in writing by fax, e-mail or surface mail to such person as may be nominated from time to time by the IPC.

5 Initial assessment and formation of the BAC Appeal Body

- 5.1 Following receipt of the Notice of Appeal, the IPC shall advise the Chairperson of the IPC Legal and Ethics Committee (or such person as may be designated by the IPC), referred to in these Bylaws as the Chairperson of the BAC.
- 5.2 The BAC Chairperson shall conduct a review of the Notice of Appeal to determine whether the content, timing and delivery of the Notice of Appeal complies with these Regulations and whether all other potential available remedies have been exhausted by the Appellant.
- 5.3 If the Notice of Appeal does not comply with these Regulations, or it appears to the BAC Chairperson that all other available remedies have not been exhausted, the BAC Chairperson shall issue a written decision dismissing the Appeal, without prejudice to its being reinstated at a later date.
- 5.4 If the Notice of Appeal complies with these Regulations
 - 5.4.1 The IPC Legal and Ethics Committee Assistant shall provide a copy of the Notice of Appeal to the Respondent; and
 - 5.4.2 The BAC Chairperson shall appoint an Appeal Body.



- 5.5 The above process shall be completed within 28 calendar days of the Notice of Appeal being received by the IPC.

6 Board of Appeal of Classification (BAC)

- 6.1 The BAC will comprise:

6.1.1 The BAC Chairperson,

6.1.2 Two (2) persons appointed by the BAC Chairperson, with appropriate skills and experience; and

- 6.2 Appointment of members of the BAC shall be within the sole discretion of the BAC Chairperson save that no member shall be appointed if the circumstances of the Appeal are such that a member thereby has a conflict of interest.

6.3 In its sole discretion, the BAC may designate counsel to assist it in the Hearing.

6.4 All members of the BAC shall comply with the IPC Code of Ethics.

6.5 The IPC Legal and Ethics Committee Assistant shall act as Secretary to the BAC and is a non-voting member

6.6 The IPC Legal and Ethics Committee Assistant shall advise the Appellant and Respondent as soon as the BAC is appointed.

7 Conduct of proceedings

7.1 The BAC shall determine the Appeal in accordance with the relevant Classification Rules and Regulations

7.2 The BAC may:

7.2.1 Expedite or adjourn, postpone or suspend its proceedings, upon such terms as it shall determine, where fairness so requires;



- 7.2.2 Conduct such enquiries as appear necessary or expedient in order to ascertain the facts;
- 7.2.3 Subject to the consent of the original parties, allow one or more third parties to intervene or be joined in the proceedings; the status and rights of a third party shall be at the discretion of the BAC.
- 7.3 As soon as practicable after the formation of the BAC, the BAC Chairperson shall issue directions to the Appellant and Respondent in relation to the procedure and timetable to be followed in the proceedings. This shall establish a schedule for the exchange of written submissions and evidence in advance of the hearing.
- 7.4 A party intending to rely upon the evidence of a witness or expert shall serve a statement or report setting out the proposed evidence of such witness or expert at a date in advance of the hearing that is specified by the BAC Chairperson.
- 7.5 The BAC shall have the power to allow, refuse or limit the evidence or appearance at the hearing of any witness or expert.
- 7.6 The BAC Chairperson may make procedural rulings on his own.

8 Hearing

- 8.1 The Chairperson of the BAC shall decide on the format of the Hearing (in person, or by (partial) telephone conference or by (partial) videoconference), and the IPC Legal and Ethics Committee Assistant shall liaise with the Appellant and Respondent to set a date for the hearing of the Appeal, which should take place at the earliest convenience.
- 8.2 The Appellant shall have the right, at its own expense, to be represented by counsel and, if necessary, to engage an interpreter approved by the BAC. A maximum of four (4) representatives of the Appellant, including the Athlete and any interpreter, shall be entitled to participate in the Hearing.
- 8.3 The Respondent shall have the right to be represented by counsel and, if necessary, to engage an interpreter approved by the BAC. A maximum of four (4) representatives of the Respondent shall be entitled to participate in the Hearing.
- 8.4 The BAC Chairperson may decide on a further number of representatives as deemed appropriate under the circumstances.



- 8.5 The Appellant and Respondent shall have the right to offer documentary evidence, to submit a hearing memorandum or brief and (subject to the BAC's discretion) to call witnesses.
- 8.6 The BAC shall consider all evidence and witness testimony, rule on its credibility and relevance, and consider it (or not) on that basis.
- 8.7 In exceptional circumstances, the BAC may adjourn the Hearing and issue a request that the Appellant and/or Respondent provide such additional evidence that the BAC believes, in its sole discretion, is required in order to enable the BAC to reach a decision regarding the Appeal. For the avoidance of doubt, the BAC will make a decision based on the merits of the case presented to it, and accordingly "exceptional circumstances" will not include instances where a party has presented insufficient evidence.

9 Appeal consequences

- 9.1 The BAC shall issue a written decision resolving any Appeal within 28 days after the Hearing. The decision shall be provided to the Appellant and Respondent, to the IPC and, if applicable, to the Competition Organising Committee (in the case of Appeals conducted in connection with a Competition).
- 9.2 The BAC shall either affirm the decision appealed from or set aside the decision. If the decision is set aside, the BAC's written opinion shall specify the procedural error committed. The Appeal Body may disregard any procedural errors or inconsistencies that, in its view, had no bearing on the decision complained of.
- 9.3 The BAC shall issue a ruling stating the reasons for its decision, including the evidence relied on, and the actions that are required as a result.
- 9.4 The IPC and/or relevant International Federation governing the sport shall be responsible for ensuring that the BAC's directives are followed in a timely manner.
- 9.5 Appeal decisions are final and are not subject to any further appeal.
- 9.6 The IPC and/or relevant International Federation shall be responsible for publishing the decision unless any party has made a reasoned request to the BAC that any decision be kept confidential and the BAC has agreed to this.



10 Confidentiality

- 10.1 Proceedings under these Regulations are confidential and not open to the public.
- 10.2 The BAC may, in its sole discretion, require all persons who attend a Hearing to sign a statement agreeing to maintain the confidentiality of facts or information disclosed during the Hearing. Any individual refusing to sign such a statement shall be excluded from the Hearing.

11 Ad hoc rules for the Paralympic Games

- 11.1 Accelerated procedures shall apply for appeals submitted during the Paralympic Games period, which is defined as the period commencing with the opening of the Paralympic Village and ending on mid-night of the day of the Closing Ceremony. The procedures set out in other parts of these Regulations shall apply as varied below.
- 11.2 Ad Hoc rules
 - 11.2.1 The Notice of Appeal shall be submitted within 24 hours of the decision from which the Appeal arises.
 - 11.2.2 The initial assessment and formation of the BAC as outlined in articles 5.1 to 5.3 above shall normally be completed within 24 hours following the receipt of the Notice of Appeal.
 - 11.2.3 The hearing as outlined in article 8 above shall normally be held within 48 hours following the receipt of the Notice of Appeal. The BAC Chairperson shall decide on the time and location of the hearing. However, if considered appropriate the BAC Chairperson may adjourn the matter to be dealt with after the Games. In such case the BAC Chairperson shall set out a time table for the further steps to be taken by the Appellant and Respondent and shall set a date for the hearing.
 - 11.2.4 The decision of the BAC shall be communicated verbally to the Appellant and Respondent immediately following the BAC having reached a final decision. The IF Technical Delegate will be informed at the same time. The written decision will be issued as soon as practically possible afterwards. Communications to these parties will be to such office, hotel room, Athlete Village location, email address as are determined most appropriate by the BAC Chairperson.