



GRIEVANCE & DISCIPLINE BY-LAW

EFFECTIVE DATE 1 SEPTEMBER 2023

RESPONSIBILITY:	Chief Executive Officer			
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Commonwealth Games Australia Ltd
ACN 629 915 448

PART 1 – GRIEVANCE PROCEDURE

1.1. DEFINITIONS

- (a) For the purposes of this by-law, a **dispute** includes:
- (i) the result of a failure of a Member to comply with, uphold the purposes of, adhere to, or observe the practices of the Commonwealth Games Australia (CGA) Constitution, by-laws, policies, regulations or agreements; or
 - (ii) the discovery of any criminal activity perpetrated by a Member during or in connection with CGA events, activities or programs.
- (b) A **grievance** includes:
- (i) an issue relating to a formal complaint that has been submitted in writing to the CEO or Board relating to CGA rules, policies and by-laws between:
 - (a) a Member and another Member or Members; or
 - (b) a Member and CGA.
- (c) Any grievance submitted anonymously will not be acted upon.
- (d) Any grievance submitted with the CEO or the Board will not be acted upon if it is deemed in the absolute discretion of the CEO or Board, to be frivolous or vexatious.
- (e) **Constitution** means the constitution of CGA.
- (f) **Member** means a legal or natural person, including an organisation, who belongs to at least one of the following Membership Classes: Program Sport, State Division, Associate Member and Life Member (in accordance with Part 4 of the Constitution).
- (g) **NST** means the National Sports Tribunal.
- (h) **NST Eligible Matter** means a kind of dispute that falls within the jurisdiction of the NST¹.
- (i) **NST Legislation** means the *National Sports Tribunal Act 2019* (Cth) (**NST Act**) and all legislative and notifiable instruments adopted under the NST Act and as in force from time to time.

1.2. APPLICATION

- (a) This grievance procedure applies to disputes or grievances under this By-Law between—
- (i) a Member and another Member or Members; or
 - (ii) a Member and CGA.
- (b) A Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

1.3. PARTIES MUST ATTEMPT TO RESOLVE THE DISPUTE

- (a) The parties to a dispute or grievance must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

¹ See NST Act sections 5(2) and 6(2) and National Sports Tribunal Rule section 7

1.4. APPOINTMENT OF MEDIATOR

- (a) If the parties to a dispute or grievance are unable to resolve the dispute between themselves within the time required by clause 1.3(a), the parties must within 14 days—
 - (i) notify the CEO of the dispute and the CEO will in turn notify the Board; and
 - (ii) agree to and request referral of the dispute to the NST for mediation.
- (b) If the dispute or grievance is in relation to the CEO, then notice of the dispute must be provided to the President.

1.5. MEDIATION PROCESS

- (a) CGA will lodge the application for mediation with the NST and the active parties in the mediation will pay the application fee unless agreed or determined otherwise by the NST CEO.
- (b) The mediation will be conducted by the NST in accordance with the NST legislation.

1.6. FAILURE TO RESOLVE DISPUTE BY MEDIATION

- (a) If the mediation process does not resolve the dispute or grievance, and if it is an NST Eligible Matter, a party (or, the parties together) may apply to, or request that CGA apply to, the NST for arbitration, which will resolve the dispute or grievance in accordance with the NST Legislation.
- (b) If the dispute or grievance is between a Member and another Member or Members of CGA, CGA will lodge the application with the NST.
- (c) The party or parties making the application to, or requesting that CGA make the application to, the NST will pay the application fee unless agreed or determined otherwise by the NST CEO.
- (d) The time limit for making an application to the NST is twenty-one (21) days after the conclusion of the mediation process under clause 1.5(a).
- (e) The arbitration panel will consist of one (1) NST member.
- (f) Any NST service charges will be apportioned evenly between the parties to the dispute unless agreed or determined otherwise by the NST CEO.

PART 2 – DISCIPLINE PROCEDURE

2.1 GROUNDS FOR TAKING DISCIPLINARY ACTION

- (a) CGA may take disciplinary action against a Member in accordance with the Constitution or under any By-Law if it is determined that the Member:
 - (i) has failed to comply with the Constitution or any By-Law or Procedure made pursuant to the Constitution;
 - (ii) refuses to advance the objectives of the Constitution; or
 - (iii) has engaged in conduct prejudicial to CGA.
- (b) Any action in relation to disputes or grievances regarding anti-doping must be taken in accordance with the CGA Anti-Doping By-Law only and not under this By-Law.

2.2 DISCIPLINARY ACTION

- (a) If the Board is satisfied that there are sufficient grounds for taking disciplinary action against a Member, the Board must make an application to the NST for arbitration in the General Division, to hear the matter and determine what action, if any, to take against the Member.
- (b) CGA will pay the NST application fee.
- (c) The NST will conduct the matter in accordance with the NST legislation.
- (d) Any NST service charges will be apportioned evenly between the CGA and the Member, unless agreed or determined otherwise by the NST CEO.

2.3 NOTICE TO MEMBER

- (a) The CEO must give written notification to the Member that an application has been made to the NST General Division.

2.4 DECISION OF NST

- (b) The NST may decide:
 - (i) that no further action will be taken against the Member; or
 - (ii) apply one or more of the following sanctions:
 - a) reprimand the Member;
 - b) suspend the Membership rights of the Member for a specified period;
 - c) expel the Member from CGA;
 - d) any other action deemed appropriate.
- (c) The Suspension of Membership rights or the expulsion of a Member by the NST under this clause takes effect immediately after the decision is made and communicated to the Member.
- (d) The Board of CGA agrees to abide by any decision made by the NST or any decision following any Appeal.

2.5 APPEAL RIGHTS

- (a) A Member whose Membership rights have been suspended or who has been expelled from CGA under this By-Law may only appeal against the suspension or expulsion to the NST Appeals Division.
- (b) Any application to appeal against a suspension or expulsion in the NST Appeals Division must be made within 7 days of the decision to suspend or expel.
- (c) The Member lodging the appeal must pay the NST application fee.
- (d) Any NST service charges will be apportioned evenly between the CGA and the Member, unless agreed or determined otherwise by the NST CEO.

3. REVIEWS

- (a) CGA reserves the right to amend this By-Law from time to time subject to organisational needs or changes in the law. They will be reviewed at least every two (2) years and any amendments will be approved by the CGA Board, updated in the CGA Policy register and updated on the CGA website.