



## Appeals Process Policy

16 March 2017

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FHISO's goal, as stated in Bylaw 3.2, is to "work transparently and collaboratively" towards the development of "consensus-based technical standards". It is inevitable that from time to time this will result in disagreements. Ordinarily they should be resolved by discussion and consensus-building within the group where the disagreement arises. This policy documents FHISO's appeals process for when serious grievances remain that cannot be resolved through consensus-building.

This document is the Appeals Process Policy referred to in Bylaw 18.

### 1 Instigating an Appeal

Any person or persons ("the Appellants") who is dissatisfied with actions or decisions made by individuals, committees, teams or groups acting as part of FHISO may instigate a formal appeal. The appeal shall be filed in writing with the Chair of FHISO ("the Chair") who will serve as Appeal Coordinator.

The appeal shall identify the specific actions or decisions that are being appealed ("the Appealed Action"), the person, persons or body who made the decision ("the Appellees"), and the grounds for appealing the decision. If the Appealed Action came about as an attempt to resolve a dispute then the parties to original dispute shall be identified as Third Parties to the appeal.

Appeals may alternatively be filed with the Vice-Chair of FHISO ("the Vice-Chair") who will serve as Appeal Coordinator if:

- a. the Chair is taking a sabbatical per Bylaw 9.15 or is otherwise unavailable, or the office of Chair is vacant;
- b. the Chair has already summarily dismissed the appeal under section 2 of this policy; or
- c. if the Chair is an Appellee, Third Party, or was otherwise directly involved in the Appealed Action.

The Appeal Coordinator may delegate the roll to another member of the Board of Directors, subject to a majority vote by the Board.

## **2 Summary Dismissal of Appeals**

The Appeal Coordinator may (but is not required to) summarily dismiss an appeal if at their sole discretion:

- a. the Appellants do not agree to abide by FHISO's Code of Conduct;
- b. the Appellant fails to identify with sufficient specificity the Appealed Action or the grounds for the appeal;
- c. FHISO was not responsible, directly or indirectly, for the Appealed Action;
- d. the appeal is frivolous or vexatious, and either the Appellant is not a member of FHISO or is a member who has had their right to appeal removed by a previous Appeal Committee per §6 of this policy;
- e. the appeal concerns a matter that has already been settled by an Appeal Committee;
- f. the appeal was filed with the Vice-Chair other than in the circumstances listed in §1;
- g. the Appellee is the Board and the Appellant does not allege the Appealed Action to be contrary to the Bylaws and Articles of Incorporation of FHISO, or applicable law;
- h. the Appealed Action is judged by the Appeal Coordinator to be primarily of a technical nature, and the matter has not been considered by the Technical Standing Committee (TSC); or
- i. the Appealed Action and the grounds for appeal are both judged by the Appeal Coordinator to be wholly of a technical nature, the Appellant does not allege the Appealed Action to be contrary to established Board policy, the TSC Charter, the Bylaws and Articles of Incorporation of FHISO, or applicable law, and the TSC was responsible for or has otherwise approved the Appealed Action.

Any decision to summarily dismiss an appeal shall be made and communicated to the Appellant together with one or more of the above reasons within fourteen days of the appeal being filed. The Appeal Coordinator shall file a copy of the appeal and the decision to summarily dismiss it with the Secretary.

Later sections of this policy shall not apply to appeals that have been summarily dismissed.

## **3 Parties to the Appeal**

The Parties to the Appeal shall consist of the Appellants, the Appellees and any Third Parties identified by the Appellant. Additional individuals, committees, teams or groups may be added as Parties to the Appeal, as appears appropriate to the Appeal Coordinator.

Within fourteen days of the appeal being filed, the Appeal Coordinator shall provide all Parties to the Appeal with a copy of the appeal as filed by the Appellants. In exceptional circumstances parts of this may be redacted. The Appeal Coordinator shall invite responses in writing from Parties to the Appeal other than the Appellants, and shall give a deadline for responses which will not normally be less than fourteen days from when the Parties to the Appeal were notified. The Appeal Coordinator shall notify the Board of the appeal.

## 4 Appeal Committee

By the deadline for responses to the appeal, the Appeal Coordinator shall have formed an Appeal Committee to consider the appeal. The Appeal Committee shall consist of those members of the Board who are not taking a sabbatical under Bylaw 9.15 and are not Parties to the Appeal. Additionally, Board members who are on sabbatical may opt to join the Appeal Committee by notifying the Appeal Coordinator, providing they are not Parties to the Appeal.

For the purpose of constituting the Appeal Committee, a Board member who is a member of a committee, team or group that is a Party to the Appeal is considered to be a Party to the Appeal themselves and is therefore excluded from the Appeal Committee.

Members of the Appeal Committee may recuse themselves, thereby ceasing to be a member of it, if their impartiality might reasonably be questioned. A member of the Appeal Committee may be removed for cause by a two-thirds vote of the Appeal Committee.

If the Appeal Coordinator is a Party to the Appeal, or has been recused or removed, the Appeal Committee shall elect one of their number to serve as Appeal Coordinator instead.

If the Appeal Committee consists of fewer than three members, the appeal shall instead be considered by the Board of FHISO, and the words Appeal Committee and Appeal Coordinator in subsequent sections of this policy shall be interpreted as meaning the Board of Directors and the Chair, respectively.

## 5 Consideration of the Appeal

The Appeal Committee shall consider the appeal filed by the Appellants and the responses received from other Parties to the Appeal. The Appeal Committee may structure their consideration as they deem fit by majority vote. In particular, they may:

- a. seek clarification or supplementary information from the Parties to the Appeal;
- b. allow further written or verbal submissions by the Parties to the Appeal;
- c. add or remove Third Parties to the appeal;
- d. arrange mediation or informal discussion sessions between the Parties to the Appeal; or
- e. seek expert advice.

In considering the appeal, the Appeal Committee must ensure that Appellants and Appellees are treated equally, insofar as circumstances allow. The Appeal Committee is bound by FHISO's Non-discrimination Policy.

If two similar appeals are being (or would be) considered concurrently, they may be considered together by a single combined Appeal Committee if both separate Appeal Committees determine by majority vote that this would be expedient. If an Appeal Committee has yet to be constituted, this determination is at the sole discretion of the Appeal Coordinator.

The Appeal Committee has no budget unless otherwise provided by the Board. Expenditures are limited to those items included in the approved budget or separately authorised by the Treasurer.

The Appeal Committee may take as long as necessary to reach a conclusion, but must meet at once every thirty days and provide all Parties to the Appeal with updates on its deliberations at least once every thirty days.

The Appeal Coordinator shall appoint a Recorder to take minutes of the Appeal Committee's deliberations and actions.

## **6 Decisions in an Appeal**

The Appeal Committee shall by majority vote reach a Decision covering all matters raised by the Appellants in the appeal and any directly related issues arising from the appeal.

Except in appeals considered by the full Board per §4, the Appeal Committee shall not:

- a. require any committee, team or group to exceed their budget without authorisation by the Board;
- b. reverse any policy decisions made by the Board unless it is contrary to the Bylaws and Articles of Incorporation of FHISO, or applicable law; or
- c. reverse any technical decision made by the TSC except where it is contrary to, or was reached via a process contrary to, established Board policy, the TSC Charter, the Bylaws and Articles of Incorporation of FHISO, or applicable law.

Except in appeals considered by the full Board, if the Appeal Committee find that a technical decision by the TSC or a policy decision by the Board needs reversing, the Appeal Committee shall direct the TSC or Board to reconsider their decision, and may specify the process to be followed or what additional facts or views to take into account when reconsidering the decision, but shall not determine the result of that reconsideration. In the case of technical decisions by the TSC, the Appeal Committee may alternatively refer the matter to the full Board who have the authority to overrule technical decisions made by the TSC.

In extreme circumstances, the Appeal Committee may by two-thirds vote apply such sanctions as are deemed appropriate against a person who is a Party to the Appeal. For the purpose of determining whether a two-thirds vote is required, a sanction is defined as any decision that restricts a person's future activities or interactions with FHISO; the Appeal Coordinator's interpretation of this definition is final. Available sactions include restricting the activies they may participate in or the manner of their participation, determining them no longer to be "in good standing" for the purpose of Bylaw 5.1, or removing their right to future appeal. The Appeal Committee shall not impose a sanction other than one which the Board could by majority vote impose.

A written copy of the Decision shall be provided to all Parties to the Appeal. In exceptional circumstances parts of this may be redacted from some or all copies. The Parties to the Appeal shall have fourteen days in which to seek clarification on any part of the Decision which is unclear. The Appeal

Committee shall respond to all requests for clarification within fourteen days, and may amend the Decision as a result.

Decisions made by Appeal Committees are binding and may not be appealed further. Decisions may exceptionally be overruled by a two-thirds vote of the Board.

Copies of the initial appeal, the responses, any further submissions from Parties to the Appeal, any written expert advice received, the Appeal Committee minutes, and an unredacted copy of the final Decision of the Appeal Committee shall be filed with the Secretary, and made available on demand to future Appeal Committees. The Appeal Committee should clearly identify what parts of this material may at the Secretary's discretion be made public. The Secretary shall keep an index of all Appeal Committee Decisions which shall be readily accessible to the Board of Directors.

Once all requests for clarification of the Decision have been handled or fourteen days have elapsed without any such requests, and the required materials have been filed with the secretary, the Appeal Committee shall be disbanded.

## **7 Changes to this Policy**

This policy may be updated by the Board of Directors at any time. If there are any appeals in progress at the time, the Board of Directors shall indicate whether they are to be governed by the updated policy or the version that was in force when the appeal was filed.