



October 20, 2015

Attention: BC Soccer Members

From: BC Soccer Board of Directors

MEMO RE: Legal Proceedings within the BC Soccer Membership - Update

BC Soccer is aware of recent and potential legal proceedings between members or other organizations within the soccer community. BC Soccer wishes to remind members of its Bylaws and Rules related to disputes and initiating legal action.

Society is increasingly litigious, and in a sport as large as soccer, disputes are inevitable. Resolving those disputes is an important part of the governance of the sport. Our membership has adopted rules to ensure effective governance and to enhance and promote the game. All organizations and individuals within affiliated soccer have a responsibility to abide by these governing Bylaws and Rules, which constitute the agreement between Canada Soccer, BC Soccer, its members, affiliated clubs and participants on relationships within soccer and how the game will be governed.

FIFA, Canada Soccer and BC Soccer have an established internal process for the determination of disputes that arise in the game of soccer and in the administration of the game. The discipline, protest and appeal process is designed to provide timely and cost-effective dispute resolution and ensures that decisions are made by those who are knowledgeable about soccer. Rules requiring internal resolution also enable soccer decision-makers to take decisions based on merit, rather than threats of possible legal costs, and ensure that fees paid by participants and their parents are used to improve soccer programs rather than advancing or having to defend legal actions.

The Canadian Soccer Association obliges its members in article 2.01.D.I.d

d) To adopt a statutory clause specifying that any dispute requiring arbitration involving itself or one of its Members and relating to the By-laws, Rules and Regulations, policies, directives and decisions of Canada Soccer and/or the statutes, directives and decisions of FIFA and CONCACAF, or the Leagues shall come solely under the jurisdiction of the appropriate Arbitration Tribunal of FIFA, CONCACAF, Canada Soccer, or Provincial/Territorial Association Members and that any recourse to Ordinary Courts is prohibited;

Accordingly, Article 15 of the BC Soccer Bylaws states:

1) BC Soccer, its Members, Leagues and Clubs, players, officials and volunteers will not take disputes to ordinary courts of law, without first exhausting all available remedies as provided for by independent and duly constituted arbitration tribunals recognized under the rules of the Association, Canada Soccer, CONCACAF, or FIFA.

2) BC Soccer supports the principles of Alternative Dispute Resolution (ADR) and is committed to the techniques of mediation and arbitration as effective ways to resolve disputes and to avoid the uncertainty and cost associated.

Breaching a BC Soccer Bylaw is a breach of BC Soccer Rule 10 Discipline clause 10.a.i. Hence, any Member, League, Club, player, official or volunteer initiating any action contrary to the requirements of Article 15.1 is liable to disciplinary action. BC Soccer has issued this information document to clarify the application of Rule 10.a.i as it applies to Article 15, including:

- A. Definition of Disputes
- B. Definition of “Exhausting All Available Remedies”
- C. Discipline and Sanctions for Non-Compliance

A. Definition of Disputes

“Disputes” for the purposes of the BC Soccer Bylaws and Rules are those disputes between parties within the Association over the interpretation and application of the Bylaws and Rules and Regulations of BC Soccer and member/affiliated organizations, for which a dispute mechanism process is provided for in the BC Soccer Rules. BC Soccer, its members, clubs and participants are required to abide by their own and other governing rules, and to make decisions in accordance with the principles of natural justice, that is, in a fair and unbiased manner.

Exceptions to the application of Article 15.1 are human rights complaints arising in soccer related activities, and claims advanced against clubs and other associations, including BC Soccer, that seek remedies under the Society Act, (e.g., that a society has not held an AGM properly).

B. Definition of Exhausting all Available Remedies

Under BC Soccer’s well-established discipline, protest and appeal system, a party which disagrees with a decision made against it may have the right to have that decision reviewed. Participants, teams and clubs have rights of appeal to their district or league. BC Soccer Rule 12 states: “Any party may, with leave of the BCSA Appeals Committee, appeal the decision of a District Association or League in Membership or BCSA Committee made against that party, provided that the said appeal involves only an interpretation of the By-Laws or Rules and Regulations of the BCSA or the District Association or League in Membership”. Corresponding Canada Soccer rules grant equivalent rights to appeal Province-level decisions.

Any individual or organization initiating legal action without exhausting of all dispute resolution processes available within the association making the decision, within BC Soccer, and within the Canadian Soccer Association, including all rights of Appeal, may be subject to disciplinary action.

C. Discipline and Sanctions for Non-Compliance

It is not within the power of BC Soccer to oust the supervisory jurisdiction of the court. It is the Board’s



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responsibility to ensure that members of the soccer community live up to their obligation to pursue all internal remedies before taking such action. Article 15.1 is a clear obligation for all organizations and individuals who choose to participate in BC Soccer activities. Commencing legal proceedings contrary to Article 15.1 is a breach of BC Soccer Rules which the Association has the duty to pursue under its Discipline Rules and Policy.

As defined in Rule 10b, sanctions can include one or more disciplinary actions including a reprimand, a fine and/or a bond, or suspension and/or expulsion from BC Soccer. The appropriate sanction will depend on the particular circumstances of each case. The legal expenses incurred to defend a legal proceeding initiated contrary to this Article may be considered a relevant factor when determining the appropriate sanction.

Should you have any questions regarding this, please contact Jason Elligott, BC Soccer's Executive Director at jasonelligott@bcsoccer.net.