



DOCUMENT:	Triathlon NSW Appeal Policy
REFERENCE:	2020 / 2021 TNSW Development Pathway

A. INTERPRETATION

CEO means the person appointed to the position of Chief Executive Officer of Triathlon NSW or his/her nominee.

Squad means the athletes selected under this policy to join any program in the TNSW Development Pathway (Rest of State Talent Academy (ROSTA), TNSW Emerging Talent Squad (TNSW ETS) and TNSW Under 23 Development Program (TNSW U23))

Triathlon NSW Selection Appeals Tribunal (TNSWSAT) means the Triathlon NSW Selection Appeals Tribunal appointed by Triathlon NSW to hear and determine appeals under this policy.

Triathlon NSW Selection Committee (TNSWSC) means the Triathlon NSW 2020 / 2021 TNSW Development Pathway Selection Committee

Triathlon NSW means Triathlon NSW Limited ACN 007 356 907, the State Sport Organisation for the sports of triathlon/ duathlon/ aquathlon and which is affiliated with Triathlon Australia.

B. Appeals Process

1. Right of Appeal

- (a) An Eligible Athlete who fails to be selected for the Squad pursuant to the process and criteria set out in the relevant Selection Policy may appeal against omission from the Squad as set out in this document.
- (b) The sole grounds of any appeal are that:
 - i. The Athlete's omission from the Squad was as result of a failure by TNSWSC to properly apply the Selection Criteria set out in the Selection Policy;
 - or
 - ii. There was no basis on which the selection decision could reasonably have been made.

For the avoidance of any doubt, an Athlete's right of appeal is limited to procedural grounds and does not extend to an investigation of the merits of a particular selection decision.

- (c) Any appeal under this clause will proceed in accordance with the procedure set out below.

2. Notice of Appeal

- (a) Any eligible Athlete wishing to appeal against his/her omission from the Squad must lodge a Notice of Appeal in writing in the form set out at Annexure 1 to this document to be received by the CEO of TNSW by 5:00pm on the second clear day following the communication of non-selection, as set out in Section B.

The Notice of Appeal must set out the grounds upon which the appeal is made.

- (b) After lodging the Notice of Appeal as set out in subclause 2(a) above, the appellant (the Athlete making the appeal) **must** file a summary of all the arguments and/or submissions that the Athlete wishes to be considered in support of his/her appeal together with an outline of all the evidence that will be relied upon in support of those arguments and/or submissions.

This document **must** be received by 5:00pm on the third clear day following communication of non-selection.

- (c) The summary of arguments and submissions in support of the Athlete's appeal must be accompanied by an appeal fee of \$100.
- (d) The appellant can withdraw an appeal at any time.
- (e) The time limits for lodging the Notice of Appeal, summary of arguments and submissions and the appeal fee are mandatory, failure to comply with these time limits

will, at the absolute discretion of the TNSWSAT, result in the appeal being dismissed without consideration on the merits.

3. Composition of TNSWSAT

- (a) The TNSWSAT shall be composed by any three persons available to hear the appeal, which must include the following:
 - (i) a person with a thorough knowledge of Triathlon;
 - (ii) another person of experience and skills suitable to the function of the TNSWSAT; and
 - (iii) a barrister or solicitor who will chair the TNSWSAT.
- (b) No member of the TNSWSAT may be a party to or directly interested in the matter under consideration.

4. Functions of the TNSWSAT

The TNSWSAT has no power of selection or re-selection. The TNSWSAT may review the matter(s) set out in the appeal and may (as appropriate) refer the matter back to TNSWSC for consideration.

5. Hearing of the Appeal

- (a) The TNSWSAT shall, as soon as practical after receiving the appeal documents, investigate and consider the matter and determine whether:
 - (i) the matter should be dismissed because, in the opinion of the TNSWSAT, there is no credible evidence, submission or argument upon which the TNSWSAT could be satisfied that a ground of the appeal can be made out; **or**
 - (ii) the appeal should be the subject of a hearing as set below.
- (b) If the TNSWSAT determines the matter should be dismissed under clause 5(a)(i) above that decision is final and the appeal has failed.

If the TNSWSAT determines that the appeal should be dismissed without a hearing, the appellant's appeal fee of \$100 is forfeited to TNSW as the costs of the appeal.

If the TNSWSAT determines the matter warrants a hearing, the TNSWSAT will advise the appellant and set the date for such a hearing as soon as practicable and necessary having regard to the timing of selection and the proximity of relevant events.

- (c) The TNSWSAT must conduct any appeal hearing in accordance with clause 5(b) as follows:
 - (i) it must observe the principles of natural justice;

- (ii) it is not bound by the rules of evidence and may inform itself as to any matter in such manner as it thinks fit;
 - (iii) it will conduct its hearings with as little formality and technicality and with as much expedition as the proper consideration of the matter permits;
 - (iv) hearings may occur in such manner as the Chairman decides, including telephone or video conferencing;
 - (v) the appellant must establish one or more grounds of appeal to the reasonable satisfaction of the TNSWSAT with full regard to the importance and gravity of the issue;
 - (vi) the parties to an appeal may be represented at a hearing but not by a barrister, solicitor or a legally trained person;
- (d) Following consideration of all information that the TNSWSAT considers relevant, the TNSWSAT shall arrive at a finding. A decision of the TNSWSAT may be by a majority decision;
- (i) the TNSWSAT shall notify the CEO of its finding as soon as practicable;
 - (ii) if the TNSWSAT considers the ground(s) alleged by the appellant to be established it shall recommend that TNSWSC reconsider the selection of the relevant Squad position;
 - (iii) where the TNSWSAT considers that a ground of appeal has been established, it may stipulate that all or part of the appeal fee be refunded to the appellant;
 - (iv) TNSWSC shall comply with any direction of the TNSWSAT to reconsider the selection of the relevant Squad position.
 - (v) any further selection decision of TNSWSC under the direction of the TNSWSAT shall be final and binding, and no other further appeal shall be available to the appellant in respect of that selection.

Triathlon NSW Limited

TRIATHLON NEW SOUTH WALES

NOTICE OF APPEAL

To: Chief Executive Officer
Triathlon New South Wales
Suite 509, 55 Holt Street
Surry Hills NSW 2010
Email: adam.wicks@nsw.triathlon.org.au

1. I _____ advise that I wish to appeal my non-selection to the
2020 / 2021 Junior Development Program
The grounds on which my appeal is based are as follows:

[attach additional pages if necessary]

Dated this _____ day of _____ 2020

Signed:

..... **Appellant**
..... **Parents / Guardian**