

# ONTARIO SOCCER LEAVE TO APPEAL DECISION

HEARING DETAILS	
<b>COMMITTEE:</b> Ontario Soccer Discipline & Appeals	<b>CASE:</b> A18-06
<b>HEARING DATE:</b> April 30 2018	<b>HEARING TIME:</b> 7PM
<b>HEARING LOCATION:</b> Telephone Conference Call	
APPEAL DETAILS	
<b>APPELLANT:</b> Ottawa Carleton Soccer League (OCSL) <b>RESPONDENT:</b> EODSA (Eastern Ontario District Soccer Association) <b>DATE OF DECISION BEING APPEALED</b> MARCH 19, 2018	
GROUNDS FOR APPEAL	
<i>Only those grounds for appeal which are noted below will be considered by the Appeal Panel when ruling on the Appeal:</i>	
<ul style="list-style-type: none"><li>• The decision maker failed to follow proper procedures as described in the relevant Published Rules.</li><li>• The decision was influenced by bias, where is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views.</li></ul>	
<b>PARTIES REQUIRED TO ATTEND:</b> Documentary Review no parties required to attend	
DECISION	
<i>(HIGHLIGHT THE DECISION OF THE PANEL)</i>	
UPHELD and refer the matter back to initial decision maker	
€ <b>UPHELD and vary the decision</b>	
€ DENIED forfeit the appeal fee and confirm the decision being appealed	
<b>DECISION:</b> The Panel are unanimous in upholding the OCSL Appeal. The EODSA directive to take control of the OCSL Adult Competitive League on October 1, 2018 is rescinded. The OCSL is an independently incorporated entity governed by its own Board. The league is a member of EODSA and an Associate member of Ontario Soccer. While the league may be a member of EODSA it is a legally independent entity and is not subject to EODSA's demand to turn its operations over to the District. This is the fundamental, but, not the only reason the Panel uphold the league's Appeal.	
FINDINGS	
<b><u>Issues to be decided</u></b>	
<ol style="list-style-type: none"><li>1. Did the District follow proper procedures as described in the relevant Published Rules.</li><li>2. Was the decision influenced by or subject to bias on the part of those making the decision.</li><li>3. Was proper notice and reason given for the decision communicated on March 19.</li><li>4. Is their a legitimate reason for EODSA to refuse permission for OCSL to operate the league</li></ol>	
<b><u>Background to the case</u></b>	



OCSL has been operating independently for many years with the ongoing permission of their Governing body EODSA. On March 19, 2018 the District communicated to the league their intention to take control of the league at the end of Outdoor 2018, effective October 1.

The League appealed this decision to Ontario Soccer.

### **Authorities considered**

Ontario Soccer Operating Procedure, Section 9 Leagues. Operating Procedure Section 3, Organizations and Operating Procedure 8, Competitions

Ontario Soccer's Competition Management Committee

### **Reasons for decision**

#### **Did the District follow proper procedures as described in the relevant Published Rules.**

The Panel acknowledge that Procedure 9:3.1 gives the District the authority to approve the League's Terms of League Operation (TOLO). But the circumstances are such that the Panel are satisfied that EODSA did NOT follow proper procedures. Ontario Soccer approves the TOLO not the District because the league operates a regional division.

#### The District's Notice to OCSL.

In the Panel's view the March 19 letter advising OCSL that the District intends to take control of the District Adult Competitive League is beyond the powers of EODSA.

OCSL is an independently incorporated organization and is not subject to the type of "hostile takeover" proposed by EODSA. Hence the District did not follow relevant procedures. Indeed they appear to have breached OCSL's legal right to govern themselves.

Given OCSL's independent status the Procedures state that it is for Ontario Soccer through their TOLO if they wish to relinquish their District Adult Competitive League to EODSA. They clearly have not done that.

*(It should also be noted that IF it were within EODSA's remit to take control of the OCSL Adult Competitive Divisions this constitutes a change to their District League operations which requires them to notify Ontario Soccer. They reference this Procedure on Page 3 of their Official Response. It is not clear from their submission whether they notified Ontario Soccer. The Panel enquired of Ontario Soccer's competitions management committee who have advised the Panel they have received no notifications from EODSA regarding OCSL.)*

#### The Reason/Rationale for taking back the Adult Division as of Outdoor 1, 2018

*The Panel are tasked with responding to this element of the Appeal even though the District's actions exceed the power they have in their relationship with OCSL.*

The Panel are of the view that no cogent reason/explanation is offered for assuming control of the league beyond stating that Procedure 9.3.1 gives them the power to do so. To the Panel "we're doing it because we can" simply re-states a Procedure. It isn't a constructive rationale on which to fit such an important decision.



Play. Inspire. Unite.



The subsequent reason offered in their Response to the Appellant speaks of their taking control of other leagues locally and that leaving OCSL independent would be biased towards the leagues they took over. (Within the group is the Ottawa Futsal League (recreational) and the ERSL District Competitive Youth League—all different and distinct entities of scope.) The Panel reject the bias argument. And still are of the view that no cogent reason has been put forward for taking control of the league. Accordingly, on the requirement to provide proper reasons the Panel rule that the District did not follow procedure.

**Was the decision influenced by or subject to bias on the part of those making the decision.**

The Panel realize that OCSL perceives bias in EODSA's actions. The Panel considered the bias issue in the context of the decision to take back the adult competitive part of OCSL. In their view there is no safe judgment they can make on whether the District decision was driven by bias. Some members of the Board may have multiple roles in the Ottawa football community which may place them in a position of bias. But there is no evidence or facts which would suggest the decision was driven by bias other than a desire to meet the Boards alleged new strategy to reshape local leagues in their own view.

**The Panel have also been asked to consider the following questions:**

1. *Did the EODSA comply with Operational Procedure 3.1(b) in terms of giving proper notice and reason?*

EODSA informed the league on March 19, 2018 that they would take control of the Adult Competitive league effective October 1, 2018. In the Panel's view this time frame is considered reasonable—IF they had the power to acquire control of the league.

As noted above, however, the District failed to notify Ontario Soccer of their intentions and thus did not comply with proper notice to the Governing Organization of the league.

As to proper reasons, the Panel are unanimous that the District DID NOT provide OCSL with legitimate reasons for their intention to extract the district adult competitive division from the league and take over that division's operations.

2. *Did the EODSA have a legitimate reason to withdraw permission for the OCSL to operate the Adult District League?*

One could argue, as EODSA have, that Procedure 9.3.1 legitimizes their action. As observed previously, in the absence of convincing reasons, "we're doing it because we can" is not a premise that holds much water for the Panel.

The District have stated in their submission that they can make the League more cost effective and increase efficiencies but do not show how this would be achieved. Such claims don't make for legitimate reasons to wrest control of the League from the existing Board operating OCSL.



**APPEAL PAYMENT INFORMATION**

**AMOUNT OF APPEAL FEE RETURNED TO APPELLANT** \$500.00

**ADMINISTRATIVE FEE CHARGED TO RESPONDENT** \$250.00

**DECISION DATED** May 22, 2018

**RIGHTS TO APPEAL TO CANADA SOCCER IS ATTACHED**



Play. Inspire. Unite.

