

ONTARIO SOCCER LEAVE TO APPEAL DECISION

HEARING DETAILS	
COMMITTEE: Ontario Soccer Discipline & Appeals	CASE: A18-33
HEARING DATE: December 20 th , 2018	HEARING TIME: 7PM
HEARING LOCATION: Conference Call	
APPEAL DETAILS	
APPELLANT: Ottawa Carleton Soccer League (OCSL – the League)	
RESPONDENT: Eastern Ontario District Soccer Association (EODSA – the District)	
DATE OF DECISION BEING APPEALED: November 7, 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>	
<input type="checkbox"/> The decision made is beyond the authority and jurisdiction of the decision maker as set out in the applicable governing documents <input type="checkbox"/> The decision maker failed to follow procedures as described in the relevant Published Rules	
PARTIES REQUIRED TO ATTEND: Documentary Review no parties required to attend	
DECISION	
<i>(HIGHLIGHT THE DECISION OF THE PANEL)</i>	
<input type="checkbox"/> UPHELD and refer the matter back to initial decision maker <input checked="" type="checkbox"/> UPHELD and vary the decision <input type="checkbox"/> DENIED forfeit the appeal fee and confirm the decision being appealed	
DECISION: The appeal from OCSL is upheld. The EODSA directive to transition the District Adult league currently operated by OCSL to the District Office is voided. EODSA has no jurisdiction over OCSL leagues and such a change would not be in compliance with OS Operational Procedures and Published Rules.	
FINDINGS	
<u>Issues to be decided</u>	
<ol style="list-style-type: none"> 1. Did EODSA have the authority or jurisdiction to deny the OCSL Terms of League Operations for both the Competitive and Recreational Divisions? 2. Did EODSA fail to consider and/or follow Ontario Soccer’s Operational Procedures Section 9, Procedure 3.10, or any other operational procedures in coming to their decision? 	
<u>Background to the case</u>	
<p>OCSL has operated a male and female, competitive and recreational adult soccer league in the Ottawa area for over 40 years per their website and for over 25 years per Letters Patent issued October 20, 1992. The League fielded 326 teams in the 2017 Outdoor season consisting of: 9 male and 8 female Regional competitive teams; 42 male and 43 female District competitive teams; and 224 District recreational teams. 2018 enrolment was comparable to 2017 and average enrolment over the past 8 years was around 350 teams generating approximately \$400K in annual cash flow.</p>	
<p>By way of letter dated March 19/18, EODSA advised the League “OCSL will not be operating the District Competitive competition at the conclusion of the 2018 summer season. More specifically, October 1/18 will</p>	



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mark the return of that competition to District operational control.” The District also requested “transfer (of) intellectual properties of the League to us (District).”

The League appealed this decision to OS and Appeal Case A18-06 held April 30/18 rescinded the District’s decision. The Appeal Panel found:

- a) The League is an independent legal entity, not subject to the District’s demand to turn its operations and intellectual property over to the District
- b) The League operates a Regional division (approximately 16 teams) which falls under the authority of Ontario Soccer (OS) and OS is the governing body which approves the Terms of League Operation (TOLO) for all divisions operated by the League.
- c) As OS is the governing body and neither OS nor the League has requested reorganization, the District intention to take control of the District Adult Competitive League is beyond the powers of the District.
- d) The District did not provide cogent reasons/rationale for assuming control of the League at the time the hearing was held.

By way of letter dated September 30/18 the District wrote “to notify you and your League Management Board that the EODSA intends to bring the operation of the Senior District Competitive Soccer League in-house starting with the 2019 outdoor season. Therefore the Senior District Competitive Soccer League (Men C1-5 and Women C1-5) will no longer be part of the OCSL TOLO”. The rationale provided was:

- i) Alignment of Senior Soccer in the District forming a properly weighted pyramid with the return of the District Youth Competitive component to the District in 2019
- ii) Process streamline with a single software solution for administration, consolidation of services, streamlining of league management and related cost savings that will result in reduced fees for registrants; and,
- iii) Provide a clear pathway through the District Youth program to the District Senior competitive program and thus increase player retention.

By way of letter dated November 7/18 the District denied the Leagues application to operate both District Competitive and District Recreational competitions as the District intends those leagues function within the operational control of the District in 2019. This letter contradicted prior assurances given to the League by expanding the scope of the league realignment to include all recreational teams. OCSL would shrink from over 300 teams to around 16 Regional teams. No additional rationale was provided for the expanded scope.

OCSL submitted an appeal to OS requesting the District decisions be reversed as the District is making a decision beyond its authority/jurisdiction and the District has failed to follow procedures as described in the relevant published rules.

Statement of the facts and decision rationale

When OCSL operated a competitive and recreational district league as permitted under Section 9 Procedure 3.8.b (S9P3.8.b), OCSL was required to affiliate with EODSA per S9P6.1.c

When OCSL was authorized by OS to form and manage a Regional league as permitted under S9P3.7.b, they were required to affiliate with OS per S9P6.1.b. The League has regularly submitted its TOLO to OS and apparently to EODSA as that was the previous protocol. This dual submission is unnecessary and may have caused confusion at the District. The League currently operates under the authority of an OS approved TOLO which was signed February 20/18.

As OCSL operates at more than one league level (Regional, District Competitive/Recreational) OCSL was required to affiliate with the governing organization of its highest league level, which is OS per S9P6.3 and is



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subject to governance and the Published Rules of OS.

Since OCSL is subordinate to OS, none of OCSL's leagues are subject to District Association governance.

Furthermore, since OCSL operates a Senior District Competitive League, EODSA cannot invoke S9P8.2 and form a District Competitive league at the senior level as only one Senior District Competitive league is permitted in a district per S9P2.5. OCSL under the governance of OS operates the Senior District Competitive league.

OS Procedures do permit more than one recreational senior league in a district. If a new recreational league is to be formed and operated by the District, the league must be in full compliance with S9P3.10 prior to launch. Logically the District's constitution, by-laws, rules and regulations as approved by the members should permit the District to form a new league and the new league's by-laws, rules and regulations should be approved by the members of the league. While there is some flexibility on what should be included in the necessary documentation for the new league, generally details should match the format suggested for Competitive leagues per P9S10.3. No evidence was submitted by the District to demonstrate compliance with S9P10.3.

EODSA has no authority to form a Senior District Competitive league as OCSL currently has that mandate from OS. Furthermore EODSA has no authority to form a Senior District Recreational league as they have not demonstrated their own governing documents or documents relevant to running the league are in compliance/exist.

EODSA is not authorized to form a Senior District Competitive league at this time per S9P2.5. EODSA is not authorized to form a Senior District Recreational league until it demonstrates full compliance with S9P10.

In the event EODSA does not follow the appeal ruling (and we note lax compliance with the previous Appeal Decision), and continues its current course of action, this Panel is of the opinion the District would likely be in violation of several OS Published Rules. There is the potential for multiple breaches: Offence 7.66 "Intentionally Contravened a Published Rule"; 7.67 "Detrimental to the Game"; and, 7.75 "Unsanctioned Soccer" either within its own organization or within the Ottawa market (Refer Section 12 Discipline for process and Procedure 9 Table 7 for applicable mandatory penalties).

The panel was unable to determine if the rationale espoused by the District fairly represents the potential synergies and implied but unquantified cost savings suggested. The District has no demonstrated skillset in operating a seniors division with over 300 teams and may be unaware of the complexity and existing structural costs currently managed by OCSL.

If the District wishes to proceed with its vision of transitioning senior soccer to the operational control of the District, then the District needs to convince OS to revoke its delegation currently held by OCSL per S9P3.1.b.

Revocation will require OS to provide to OCSL both proper notice (per previous panel decision, 6 months is considered adequate) and reason. This is a major structural change for the District with the addition of a very large senior's league, new processes, new corporate structure, by-law revisions and additions, and staff increases. EODSA will need its member's consent. OS will have to be convinced the changes make sense. Key to moving ahead is full compliance in advance with S9P3.10 with respect to documentation and process.



Additionally, OS will need information on how the proposed restructure will benefit the Regional league and address League viability concerns.

If the District was confused about whose authority the District leagues fall under, the District still has the obligation to OCSL to provide notice and reason per the very same policy applicable to OS (S9P3.1.b) while furiously complying with S9P3.10 with respect to updating current district documentation plus new documentation and process for the new league. Major changes at the district level will require communication with and approval from district members.

Summary

- a) **The District has no authority over OCSL leagues. OCSL is governed by OS.**
- b) **The District may not start a new Senior Competitive league. OCSL is the sole operator of the sole District Competitive League.**
- c) **The District may not start a new Senior Recreational league as it has not fully aligned its members or paperwork.**
- d) **The intention is OCSL will continue to operate the Seniors Leagues in the EODSA market subject to OS approval of the League's TOLO.**

Authorities and documents considered

Section 9 Leagues – Procedure 2, 3, 6, 9, 10

Section 12 Discipline – Procedure 9 Table 7

Appeal from OCSL

EDOSA response to OCSL appeal

OCSL rebuttal of EDOSA response

EODSA Adult Town Hall Presentation Dec/18

EODSA Strategic Plan

Appeal Decision A18-06

APPEAL PAYMENT INFORMATION

AMOUNT OF APPEAL FEE RETURNED TO APPELLANT	\$ 500
ADMINISTRATIVE FEE CHARGED TO RESPONDENT	\$ 250
DECISION DATED	December 24, 2018

RIGHTS TO APPEAL TO CANADA SOCCER IS ATTACHED



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