



Athletics New Zealand.

Frequently the question is asked “When can I protest, what do I have to do? If I am unhappy with my protest, how do you appeal to the Jury?”

In an effort to clarify some of these questions this article has been prepared mainly using as a source document, the IAAF publication ‘The Referee’ (The latest version is 2012)

Firstly, what is the difference between a Protest and an appeal? A protest concerning the result or conduct of an event is an immediate ORAL PROTEST to the relevant Referee. If the result of this oral protest is felt to be unsatisfactory then a WRITTEN APPEAL to the Jury can be made in accordance to the rules of the Competition.

An Oral Protest can be made at the Start of a Race over a DQ in which case the Start Referee ‘may’ allow the athlete to ‘run under protest’ to preserve the rights of the athlete. The athlete would then have 30 minutes from the publishing of the results to Appeal to the Jury.

At a Field event an athlete ‘may’ protest the result of an attempt and have it measured to protect their rights. If this happens in the first three rounds the ‘Protested’ result must be taken into account when looking at the ‘Top Eight’. This may mean taking nine through. Following the event the athlete would have 30 minutes to appeal to the Jury. If no appeal is made, then this performance would be left out of the results.

It is essential any appeal clearly states the Rule claimed to be incorrectly applied and the appeal needs to provide as much information and evidence as possible in support of this.

The rules and comments follow:-

Protests and Appeals

Rule 146

1. Protests concerning the status of an athlete to participate in a competition must be made, prior to the commencement of such meeting, to the Technical Delegate(s). Once the Technical Delegate(s) make a decision, there shall be a right of appeal to the Jury of Appeal. If the matter cannot be settled satisfactorily prior to the competition, the athlete shall be allowed to compete “under protest” and the matter be referred to the Council or the relevant body.

Protests and Appeals

Rule 146

2. Protests concerning the result or conduct of an event shall be made within 30 minutes of the official announcement of the result of that event.

The Organising Committee of the competition shall be responsible for ensuring that the time of the announcement of all results is recorded.

Protests and Appeals

Rule 146

3. Any protest shall be made orally to the Referee by an athlete, by someone acting on his behalf or by an official representative of a team. Such person or team may protest only if they are competing in the same round of the event to which the protest (or subsequent appeal) relates (or are competing in a competition in which a team points score is being conducted). To arrive at a fair decision, the Referee should consider any available evidence which he thinks necessary, including a film or picture produced by an official video recorder, or any other available video evidence. The Referee may decide on the protest or may refer the matter to the Jury. If the Referee makes a decision, there shall be a right of appeal to the Jury. Where the Referee is not accessible or available, the protest should be made to him through the Technical Information Centre.

The changes made to Rule 146.3 in 2009 were designed to reflect current practice in terms of who can actually make a protest or appeal and how and where they can be made.

The changes made in 2011 remove the reference to “bona fide” interest and replace it with clearer words to the effect that that the athlete or team should have been competing in the same round of the event to which the protest or appeal relates, or are competing in an overall competition to which a team points score relates.

Protests and Appeals

Rule 146

4. In a Track Event:

(a) if an athlete makes an immediate oral protest against having been charged with a false start, a Track Referee may, if he is in any doubt, allow the athlete to compete under protest in order to preserve the rights of all concerned. Competing under protest shall not be allowed if the false start was detected by an IAAF approved false start control apparatus, unless for any reason the Referee determines that the information provided by the apparatus is obviously inaccurate.

(b) a protest may be based on the failure of the Starter to recall a false start or, under Rule 162.5, abort a start. The protest may be made only by, or on behalf of, an athlete who has completed the race. If the protest is upheld, any athlete who committed the false start or whose conduct should have led to the start being aborted, and who was subject to warning or disqualification according to Rule 162.5 or 162.7, shall be warned or disqualified.

Whether or not there may be any warnings or disqualification, the Referee shall have the authority to declare the event or part of the event void and that it or part of it shall be held again if in his opinion justice demands it.

Note: The right of protest and appeal in (b) shall apply whether or not a false start control apparatus is used.

When the Start Referee has to decide on a protest presented by an athlete for being charged with a false start, he has to consider all the available data and in case of only a small possibility that the athlete may be right, he should allow the athlete to compete under protest not losing time when taking this decision, time that may ruin an existing timetable. After the race, a final decision may be taken, a decision that may be subject, obviously, to an appeal to the Jury. But to be clear, the Referee should not allow an athlete to compete under protest if the false start has been detected by a false start control apparatus that appears to be working properly.

This rule was very intentionally re-structured in 2011 to make it clear that the situations covered by (a) and (b) are indeed different and may be dealt with in quite different ways, for example as outlined in the note which applies only to the situations in (b).

In cases where the Starter failed to recall a false start, the Referee has to consider all factors involved in that particular case and must decide if the race has to be re-held.

Giving two examples of extreme situations, it will surely be not admissible to rerun a Marathon race in a case where the athlete arriving in the first place with a comfortable advantage was responsible for a non-recalled false start. But the same will probably not be the case if another winner, now in a 60m indoor race, was also responsible for a non-recalled false start.

Protests and Appeals

Rule 146

5. In a Field Event, if an athlete makes an immediate oral protest against having a trial judged as a failure, the Referee of the event may, at his discretion, order that the trial be measured and the result recorded, in order to preserve the rights of all concerned. If the protested trial occurred:

(a) during the first three rounds of trials of a horizontal Field Event in which more than eight athletes are competing, and the athlete would advance to the final three rounds of trials only if the protest or subsequent appeal was upheld; or

(b) in a vertical Field Event, where the athlete would advance to a higher height only if the protest or subsequent appeal is upheld, the Referee may allow the athlete to continue competing to preserve the rights of all concerned.

Protests and Appeals

Rule 146

6. The protested performance of the athlete and any other performance achieved by him while competing under protest will become valid only if a subsequent decision to that effect is made by the Referee or an appeal to the Jury of Appeal is made and it is upheld.

Protests and Appeals

Rule 146

7. An appeal to the Jury of Appeal must be made within 30 minutes: (a) of the official announcement of the amended result of an event arising from the decision made by the Referee; or (b) of the advice being given to those making the protest, where there is no amendment of any result.

It shall be in writing, signed by the athlete, by someone acting on his behalf or an official representative of a team and shall be accompanied by a deposit of USD100, or its equivalent, which will be forfeited if the appeal is not allowed. Such athlete or team may appeal only if they are competing in the same round of the event to which the appeal relates (or are competing in a competition on which a team points score is being conducted).

Note: The relevant Referee shall, after his decision on a protest, immediately inform the TIC of the time of the decision. If the Referee was unable to communicate this orally to the relevant team(s) /athlete (s), the official time of the announcement will be that of posting of the amended result or of the decision at the TIC.

Protests and Appeals

Rule 146

8. The Jury of Appeal shall consult all relevant persons. If the Jury of Appeal is in doubt, other available evidence may be considered. If such evidence, including any available video evidence, is not conclusive, the decision of the Referee or the Chief Race Walking Judge shall be upheld.

Protests and Appeals

Rule 146

9. The Jury of Appeal may reconsider a decision if new conclusive evidence is presented, provided the new decision is still applicable. Normally, such re-consideration may be undertaken only prior to the Victory Ceremony for the applicable event, unless the relevant governing body determines that circumstances justify otherwise.

Protests and Appeals

Rule 146

10. Decisions involving points which are not covered by the Rules shall be reported subsequently by the Chairman of the Jury to the General Secretary of the IAAF.

Protests and Appeals

Rule 146

11. The decision of the Jury of Appeal (or of the Referee in the absence of a Jury of Appeal or if no appeal to the Jury is made) shall be final and there shall be no further right of appeal, including to CAS. **The changes made to this Rule in 2011 were designed to ensure that where appropriate the Rules relating to protests and appeals were the same as well as to provide a guide as to a time limit for reconsiderations.**

Jury of Appeal

Rule 119

At all competitions organised under Rule 1.1(a), (b), (c) and (f), a Jury of Appeal, which should normally consist of three, five or seven persons shall be appointed. One of its members shall be the Chairman and another, the Secretary. If and when considered as appropriate, the Secretary may be a person not included in the Jury.

In instances where there is an appeal relating to Rule 230, at least one member of the Jury shall be a current member of the Panel of International (or Area) Race Walking Judges. Members of the Jury of Appeal shall not be present during any deliberations of the Jury concerning any Appeal that affects, directly or indirectly, an athlete affiliated to his own Member Federation.

The chair of the Jury shall ask any member implicated by this Rule to withdraw, in the event the Jury member has not already done so.

The IAAF or other organisation responsible for the competition shall appoint one or more alternate Jury members to substitute for any Jury member(s) who are not able to participate in an Appeal. Furthermore, a Jury should likewise be appointed at other meetings where the organisers deem it desirable or necessary in the interest of the proper conduct of the competitions.

The primary functions of the Jury shall be to deal with all appeals under Rule 146, and with any matters arising during the course of the meeting which are referred to it for decision.

Protesting to the Referee

As has been shown in the rules above, an athlete or a representative may Protest to the Referee either at the event site or within 30 minutes of the results being published. It is important that this Protest be based on a rule not being applied correctly. The Referee can rule on the Protest, or may choose to refer directly to the Jury.

Remember, on the Track the Referee may if in doubt allow the athlete to run 'under protest'. This situation can occur also at a field event. If an attempt is made in the first three rounds and measured

'under protest' it may be necessary to take this athlete into final three rounds in case the 'Appeal' is upheld.

Appealing to the Jury

If an athlete or representative is not in agreement with the Referee's decision they can appeal to the Jury. This must be done on the form provided by the Technical Information Centre (TIC).

It must state the rule that is being used to argue the case. There is a fee for this which is set at USD100 at IAAF meetings under Rule 146.7. Other meetings may set their own fee in the competition rules. Currently in New Zealand set at \$50.00 for major events.

The appeal must be factual and provide any evidence the appellant would like the Jury to review. This may include personal video evidence or host broadcast evidence.

Duties of Jury

The following notes on the duties of the Jury of Appeal produced in 2003 by the Late David Littlewood (UKA) and amended by him in 2009 are appended. These summarise the duties well.

DUTIES OF THE JURY OF APPEAL PROCEDURES

1. You should be readily available at all times during the event. If moving away from your allocated position you should ensure that the other members of the Jury are aware of your location.
2. Although not essential, it is clearly desirable for you to watch the progress of events, both track and field, closely.
3. If there is an appeal for you to consider you will be provided with the written appeal from the competitor/Team Manager/agent via the designated official. (TIC) Do not deal directly with either the athlete or someone acting on his/her behalf. Conduct your discussions in private and do not allow access to the room or area to any other person – except where you have called someone specifically to appear before you.
4. You will need to appoint one of your number as the Secretary to the Jury. It will be this person's responsibility to provide a clear written statement as to the findings of the Jury and the reasons behind such a decision. It is desirable to have this statement typed rather than in handwritten form for distribution.
5. In coming to a decision you need to consider:-
 - a) The exact terms of the appeal and the wording of the IAAF rule being used as the basis of the appeal.
 - b) What information and/or explanation you have been provided with by the relevant Referee/Judge.
6. In coming to your decision you may wish to review:-
 - a) The grounds being claimed as the basis of the appeal – are they applicable and likely to change a decision even if proved correct?
 - b) The information provided by the appropriate Referee with the reasons, if relevant, why a particular decision (or lack of decision) was taken. This should always include such items as the umpiring report form(s) for a track infringement or a photofinish picture if the protest is about the placing of a competitor in a track event.
 - c) Where relevant, attempt to view any video evidence via the Host Broadcaster.
 - d) Make arrangements to view the photofinish picture on screen if the photograph provided is not conclusive.
 - (e) Interview the Referee and/or Judge/Umpire, if necessary, to clarify the details/ circumstances of the infringement.

f) Although unusual, you may wish to question the athlete(s) concerned. (It is normally not recommended to take this course of action)

g) In the case of an appeal against a false start and a subsequent disqualification then obtain a copy of the print out of the reaction times for the race. (Familiarise yourself with the format of these print-outs and be sure you understand the significance of their content)

7. Remember that your decision needs to be made as quickly as possible. It is likely that qualification for the next round or a medal presentation may hinge on your decision. A majority decision will be acceptable.

8. Agree a clearly worded statement of the results of your deliberations, explaining exactly why the protest has been upheld or rejected. Remember that there is no appeal against your decision so clarity is essential. This statement will be provided to the person making the appeal and also to the appropriate Referee. Remember that it is always possible that the contents may be quoted in the media as it is likely to be made available to the media via the press centre.

Comment concerning application in New Zealand

Rule 146.8 states that the Jury “shall consult all relevant persons”. It is clear from the procedural guidelines set out above that, at international level, the athlete is not necessarily considered a “relevant person”. In the New Zealand domestic situation, however, where there is no “Host Broadcaster” video available to the Jury, it would be appropriate for the Jury to interview at the very least a representative of the athlete (e.g. Team Manager).

It must be emphasized, however, that the original written appeal needs to set out very clearly the grounds for the appeal and any evidence in support of the claimed failure to apply the competition rules correctly.

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