



# APPEAL POLICY

**Last Updated**  
November 2019

## Definitions

1. The following terms have these meanings in this Policy:
  - a. *"Appeals Panel"* – person or persons assigned by the case manager under paragraph 16 of this Policy to hear the internal appeal and deliver a decision;
  - b. *"Appellant"* – The Party appealing a decision
  - c. *"Case Manager"* – An individual appointed by SSC who may be any staff member, committee member, volunteer, Director, or an independent third party, to oversee this Appeal Policy. The Case Manager will have responsibilities that include, but are not limited to:
    - i. Ensuring procedural fairness;
    - ii. Respecting the applicable timelines;
    - iii. Seeing that appeals proceed only when there are Grounds for Appeal under this Policy; and
    - iv. Using decision making authority empowered by this Policy.
  - d. *"Days"* – Days including weekends and holidays
  - e. *"Individuals"* – All categories of membership defined in SSC's Bylaws, as well as all individuals employed by, or engaged in activities with, or registered with SSC or one of its Members or associated clubs, including, but not limited to, athletes, coaches, convenors, officials, volunteers, managers, administrators, committee members, Directors and Officers of SSC, spectators at events, and parents/guardians of athletes.
  - f. *"Members"* – Includes Provincial/Territorial Organizations and Clubs
  - g. *"Parties"* – The Appellant, Respondent, and any other Individuals affected by the appeal
  - h. *"Respondent"* – The body or person whose decision is being appealed

## Purpose

2. SSC and its Members are committed to providing an environment in which all Individuals involved with the organizations are treated with respect and fairness. SSC and its Members provide Individuals with this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain decisions made by SSC and its Members. Further, some decisions made by the process outlined in the *Discipline and Complaints Policy* may be appealed under this Policy.

## Scope and Application of this Policy

3. This Policy applies to all Individuals. Any Individual who is directly and personally affected by a decision made by SSC or a Member shall have the right to appeal that decision provided there are sufficient grounds for the appeal under the 'Grounds for Appeal' section of this Policy.
4. This Policy **will apply** to appeals from decisions relating to:
  - a. Eligibility
  - b. Selection
  - c. Conflict of Interest

- d. Discipline
- e. Membership

Such decisions must be appealed under this Policy before any other appeal or challenge may be taken.

5. This Policy **will not apply** to decisions relating to:
  - a. Employment
  - b. Infractions for doping offenses
  - c. The rules of the sport or the application of the rules of the sport during a competition
  - d. Selection criteria, quotas, policies, and procedures established by entities other than SSC or a Member (as applicable)
  - e. Substance, content and establishment of team selection criteria
  - g. Decisions made by Sport Canada with regards to carding
  - h. Volunteer/coach appointments and the withdrawal or termination of those appointments
  - h. Budgeting and budget implementation
  - i. The organization's operational structure and committee appointments
  - j. Decisions or discipline arising within the business, activities, or events organized by entities other than SSC or its Members (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by the organization at its sole discretion)
  - k. Commercial matters for which another appeals process exists under a contract or applicable law
  - l. Decisions made under this Policy

### Timing of Appeal

6. Individuals who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit the following:
  - a. Notice of the intention to appeal
  - b. Contact information and status of the appellant
  - c. Name of the respondent and any affected parties, when known to the Appellant
  - d. Date the appellant was advised of the decision being appealed
  - e. A copy of the decision being appealed, or description of decision if written document is not available
  - f. Grounds for the appeal
  - g. Detailed reasons for the appeal
  - h. All evidence that supports these grounds
  - i. Requested remedy or remedies
  - j. An administration fee of two hundred dollars (\$200), which will be refunded if the appeal is upheld
7. An Individual who wishes to initiate an appeal beyond the seven (7) day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow, an appeal outside of the seven (7) day period will be at the sole discretion of the Case Manager and may not be appealed.

## Grounds for Appeal

8. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
  - a. Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make
  - b. Failed to follow its own procedures (as set out in the Respondent's governing documents)
  - c. Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)
  - d. Made a decision that was patently unreasonable
9. In order to succeed in any appeal, the onus is upon the Appellant to demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

## Screening of Appeal

10. SSC or the Member (as applicable) will appoint an independent Case Manager (who must not be in a conflict of interest) who has the following responsibilities:
  - a. Determine if the appeal falls under the scope of this Policy
  - b. Determine if the appeal was submitted in a timely manner
  - c. Decide whether there are sufficient grounds for the appeal
11. If the appeal is denied based on insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed, is final and cannot be challenged elsewhere.

## Determination of Affected Parties

12. In order to ensure the identification of any Affected Parties, the Case Manager will engage SSC or the Member (as applicable). The Case Manager will determine whether a party is an Affected Party in their sole discretion. This decision may not be appealed, is final and cannot be challenged elsewhere prior to the Appeal being conducted. At any time during the conduct of an Appeal, the Appeal Panel may identify an Affected Party.

## Early Dispute Resolution Facilitation

13. Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), and if Grounds for Appeal exist under this Policy, the Case Manager will require the Appellant and the Respondent to attempt to resolve the dispute using the Early Resolution Facilitation services offered by the Sport Dispute Resolution Centre of Canada (SDRCC).

14. If the dispute is resolved during the Early Resolution Facilitation, then the matter will be considered closed. Unless minutes of the settlement were already prepared and duly executed by the parties during the Early Resolution Facilitation, the Case Manager will document the outcome of the Early Resolution Facilitation process and provide it in writing to both parties. Any negotiated decision will be binding on the parties. Negotiated decisions may not be appealed.
15. Appeals resolved by Early Resolution Facilitation will cause the administration fee to be refunded to the Appellant.
16. If the matter of the appeal is time sensitive, the Case Manager shall set a deadline by which, absent a settlement, the Early Resolution Facilitation will be automatically terminated. Upon such deadline being reached or upon notice from any of the parties that the Early Resolution Facilitation was unsuccessful, the Case Manager will take the appeal to the next step.

### **Procedure for Appeal Hearing**

17. If the dispute is not resolved using Early Resolution Facilitation, the Case Manager will appoint an Appeals Panel which shall consist of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.
18. The Case Manager shall notify the Parties that the appeal will be heard. The Case Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.
19. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
20. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:
  - a. The hearing will be held within a timeline determined by the Case Manager
  - b. The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
  - c. Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
  - d. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
  - e. The Panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.

- f. The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
- g. If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become a party to the appeal in question and will be bound by its outcome
- h. The decision to uphold or reject the appeal will be by a majority vote of Panel members

21. In fulfilling its duties, the Panel may obtain independent advice.

### **Appeal Decision**

22. The Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
- a. Reject the appeal and confirm the decision being appealed
  - b. Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
  - c. Uphold the appeal and vary the decision
  - d. Determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, will be assessed against any Party. In assessing costs, the Panel will take into account the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources
23. The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and SSC or the Member (as applicable). In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel. SSC and the Member, as appropriate in each circumstance, shall exclude such information from the public record as may be appropriate in the context of each case, having regard to such factors as the age of the Appellant or other Affected Party, the nature of the decision, and the extent to which personal information of any individual forms part of the decision.

### **Timelines**

24. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Case Manager and/or Panel may direct that these timelines be revised.

### **Confidentiality**

25. The appeals process is confidential and involves only the Parties, the Case Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision

is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

### **Final and Binding**

26. No action or legal proceeding will be commenced against SSC, Members, or Individuals in respect of a dispute, unless SSC or the Member (as applicable) has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.

<b>APPEAL POLICY</b>	
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Revision Approval Dates	