



Early Resolution Facilitation - Resolving Disputes Thoughtfully

by Brian Ward, Designated Safe Sport Contact and Dispute Resolution Officer

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I have had the opportunity to access the Early Resolution Facilitation service offered by the Sport Dispute Resolution Centre of Canada in my role as the designated safe sport contact and dispute resolution officer for a variety of sporting organizations. My experience is that this service offers parties a productive avenue to resolve disputes in a timely manner and helps to preserve or restore relations which is often not the case with formal avenues of recourse.

In this article, I share my experiences and observations of this service.

In my role, I am the first point of contact for complaints, appeals and concerns generally.

I triage any matter received and ensure that it is within the jurisdiction of the organization to address and that a fair process and review are undertaken.

In the previous six months, I have referred five matters to the Early Resolution Facilitation service. The matters complained of have been diverse; including discipline, team selection and an appeal of a carding nomination decision. The parties involved have been both represented and unrepresented. The results have been, however, the same; the matters have been resolved. The feedback received from the participants has been positive and includes some of the following benefits.

Resolution Facilitation is, as the term implies, a process to facilitate communication between the parties to assist them in finding solutions. Often in conflict situations, parties become entrenched in their view and have difficulty considering other perspectives or even explaining their own perspective in terms that can be heard/understood by the other party. A neutral facilitator can bridge communication gaps by rephrasing or drawing out information so both parties have a fuller appreciation of the situation at hand.



This confidential and informal means of dispute resolution is adapted to the specifics of each conflict situation (for example, in person or telephone meetings).

The Early Resolution Facilitation service is efficient. Contact with the parties after the filing of a request is almost immediate and depending upon the availability of the parties, scheduling of the resolution facilitation is often accomplished within the week.

The Early Resolution Facilitation process allows parties to have a more candid and fulsome discussion due to the confidential and informal nature of the process. A sporting body also has a greater opportunity to explain the decision-making process more directly in this type of setting. The parties have the ability to acknowledge concerns and undertake changes openly and straight away to avoid future issues.

The neutrality of the Early Resolution Facilitation service is helpful in ensuring that parties have a voice that is being heard. They interact with a facilitator who has been selected by an independent body (Sport Dispute Resolution Centre of Canada) or upon the agreement of the parties. The neutrality of the facilitator allows them to hear each party's perspective and to provide a candid review of the situation which can then help the parties see the situation more fully and possibly reassess their positions.

The Early Resolution Facilitation service works with the parties to craft an agreement that the parties direct and consider acceptable in resolving the dispute. In working together to craft the solution, the parties are more likely to avoid the winner/loser result that flows from formal processes which can then lead to a deeper adversarial relationship moving forward.

The Early Resolution Facilitation service is offered at no cost to parties of sport organizations funded by Sport Canada. The strain on resources experienced by sporting organizations juggling multiple priorities is well known. An early resolution means not only promoting better relationships but also avoids tying up scarce organizational resources (financial and human) in the administration of a formal process.



While the matters I have referred have been successfully resolved through the resolution facilitation process, clearly this will not always be possible. Resolution is not the only indicator of success. Resolution facilitation also allows parties to narrow the issues in dispute, limit or agree upon the evidence to be considered, and/or remove (as much as possible) the emotion or animus as they then pursue a formal process.

Referral to the Early Resolution Facilitation service is a sound business decision for any national sporting organization to address a dispute or appeal and is encouraged as a productive means to resolve differences.

For more information regarding the Early Resolution Facilitation service, download the SDRCC publication entitled “Early Resolution Facilitation For Sport Organizations in Canada” available on its website. ■

www.crdsc-sdrcc.ca/eng/documents/CRDSC-Early_RF-EN.pdf



EARLY RESOLUTION FACILITATION

For Sport Organizations in Canada

Resolution Facilitation (“RF”) was introduced to the sport community by the SDRCC in 2006 as an informal dispute resolution mechanism to help parties to a dispute explore possible solutions in a safe environment. The experience has been fruitful and has set a solid foundation for custom-made dispute resolution for Canadian sport. The resolution facilitator is a professional mediator whose role is to provide a forum for parties to openly communicate with one another and, where possible, guide them to an amicable settlement. Where a settlement is not possible, parties often leave the RF session with a better mutual understanding and respect, as well as alternative paths and resources to resolve their dispute. In *Early Resolution Facilitation*, the next step for parties would be the internal appeal process of the sport organization.

WHAT ARE THE ADVANTAGES?

LESS COSTLY

Since 2006, RF is a mandatory step in the arbitration process at the SDRCC. Almost 40% of the disputes brought before the SDRCC are settled amicably before going to arbitration. This means that sport organizations incorporating Early Resolution Facilitation to their appeal process **can reduce by up to 35-40% the number of internal appeals to be conducted**. Adopting such measures can allow sport organizations to invest more into the development of their athletes and their sport instead of spending time, money and other scarce resources in conducting appeals.

