

## Sport Dispute Resolution Centre of Canada

# Call for Applications for Arbitrators and Mediators \*

### Background

Established in 2003 and fully operational since 2004, the Sport Dispute Resolution Centre of Canada (SDRCC) offers a proactive approach to handling disputes at the national level of Canada's sport system. In 2022, after being awarded the mandate by the Government of Canada to implement a safe sport mechanism, the SDRCC launched the Abuse-Free Sport program to address all forms of maltreatment in sport.

As part of its prevention and education mission, the SDRCC provides members of the sport community with information, expertise, and assistance regarding alternative dispute resolution, to address and resolve conflicts quickly, and fostering sport environments that are free from harassment, abuse and discrimination.

Where issues arise and the parties cannot reach a resolution on their own, the SDRCC services range from a complaint management process to alternative dispute resolution services tailored specifically for the sport community. More particularly, the SDRCC offers resolution facilitation, mediation, med/arb and arbitration services for sports-related disputes such as national team selection, athlete assistance program (funding), disciplinary issues, maltreatment allegations and doping violation assertions.

Since May 2021, the SDRCC manages rosters independently for each of its divisions, being the Ordinary Tribunal, the Doping Tribunal, the Safeguarding Tribunal and the Appeal Tribunal.

The SDRCC is governed by *An Act to Promote Physical Activity and Sport* (S.C. 2003, c. 2) which received Royal Assent on March 19, 2003. Administrative and procedural rules governing the SDRCC tribunal operations are contained in the Canadian Sport Dispute Resolution Code. Most SDRCC arbitral awards are made public and can be consulted online via the SDRCC jurisprudence database.

### Call for Applications

The SDRCC is seeking to recruit more Canadian-based service providers who are fluent in French and English and capable of conducting proceedings in both languages. This call is targeted toward mediators and/or arbitrators, with a particular focus on med/arb neutrals and mediators specialized in matters of maltreatment. The mandate for these positions would begin in the summer of 2023 and roster members will be admissible for a renewal in 2025.

Candidates should be aware that SDRCC proceedings are often urgent in nature, with little or no advance notice, and are generally conducted in very short timeframes requiring decisions within 5 to 7 days or less. Since the majority of SDRCC proceedings are conducted by telephone and videoconferencing, only candidates who are proficient in the use of related technological tools will be considered.

The service providers will be remunerated for their services in accordance with the policies of the SDRCC. The fee is currently of \$250 per hour for a maximum of eight (8) hours per day, with restrictions and caps for certain tasks.

The selection process will be completed in the summer of 2023. Successful candidates will be required to attend a half-day orientation session and observe proceedings conducted by existing roster members prior to becoming active. Roster members are encouraged to take part in regular

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\* Unless the context otherwise requires, words importing a particular gender shall include all genders.

professional development events. They are also required to attend the SDRCC Arbitrator and Mediator Conference, the next one to take place from January 31 to February 2, 2024 in Calgary, Alberta, in conjunction with a Court of Arbitration for Sport regional seminar.

### **Selection Criteria**

The selection criteria are defined in Appendix A of this Call for Applications. Additional selection criteria for specialized rosters are defined in Appendix B.

The SDRCC will take into consideration the interest expressed by candidates for the specialised rosters, but shall have full discretion to decide how many and who from the pool of candidates will constitute each roster.

The SDRCC reserves the right to refuse to appoint candidates to the SDRCC roster for any reason (including limiting the number of candidates on the roster). There shall be no appeal from the SDRCC decision.

### **Required Information**

Candidates must submit the following documents:

1. The [SDRCC Roster Application Form](#) completed and signed;
2. A cover letter expressing their interest in joining the SDRCC roster and, if wishing to be part of one or more of the SDRCC specialty rosters (Doping, Safeguarding, Appeal), explaining their relevant training, experience and expertise for such.
3. A resume setting out:
  - their mediation and/or arbitration experience, as applicable;
  - their knowledge of and involvement or experience in the Canadian amateur sport system.
4. If wishing to be selected as **arbitrators\***:
  - a copy, redacted to protect confidentiality if necessary, of an arbitral decision with reasons written by the candidate within the last two years.
5. If wishing to be selected as **mediators\***:
  - two letters of reference from lawyers or parties for whom the candidate has conducted a mediation within the last two years.
6. If wishing to be selected as **safe sport mediators**:
  - please share in one page or less why you want to be part of this specialized roster, with an emphasis on how your skills and experience will contribute to ensuring that the program is effective and that it is responsive to clients' particular needs including: i) addressing trauma and power imbalances in mediation and ii) displaying healthy self-care skills given that the conversations may be emotionally-charged and triggering.

\* Applicants wishing to be considered as **med/arb neutrals** must provide the information required above for both arbitrator and mediator status.

### **Application Process**

Applicants are strongly encouraged to review the following before applying:

[The website of the SDRCC](#)

[The SDRCC Strategic Plan for 2020-2024](#)

[The SDRCC Annual Report for 2021-22](#)

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[The SDRCC Corporate Plan for 2023-24](#)

[The 2021 Canadian Sport Dispute Resolution Code](#)

[The Code of Conduct for SDRCC Mediators and Arbitrators](#)

[The website of the Office of the Sport Integrity Commissioner](#)

Applications must be received by the SDRCC **no later than 4 pm (EDT) on June 30, 2023** and include all the documents required. Incomplete applications will not be considered. It is the candidate's responsibility to ensure that the application is received.

Interested candidates should send their complete application by email at [applications@crdsc-sdrcc.ca](mailto:applications@crdsc-sdrcc.ca). **NO PAPER APPLICATIONS ACCEPTED.** If letters of reference are to be supplied to the SDRCC directly by the referees, please indicate so in the body of your email message. It is the responsibility of the candidate to ensure that letters of reference are received by the SDRCC before the above deadline.

*Incomplete applications will not be subject to further follow up.*

Sport Dispute Resolution Centre of Canada

**Selection Criteria and Process for Arbitrators and Mediators**

**INTRODUCTION**

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**Background**

The Sport Dispute Resolution Centre of Canada (“Centre”) is governed by *An Act to Promote Physical Activity and Sport* (S.C. 2003, c. 2) which received Royal Assent on March 19, 2003. Subsection 17(1)(j) of the Act affords full responsibility to the Board of Directors to establish the qualifications required to become a mediator and/or and arbitrator of the SDRCC.

**Purpose**

In light of the maximum length of the directors’ mandates fixed by the Act, the Board of Directors adopted this *Selection Criteria and Process* in 2019 in order to document the way in which the SDRCC mediators and arbitrators are selected and to ensure consistency from one appointment process to the next.

**GENERAL PROCESS**

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**Call for Applications**

The SDRCC will issue a public call for applications to solicit candidates in the alternative dispute resolution (ADR) community, as widely as possible, through its website, entities sharing similar membership profiles such as the ADR Institute of Canada and its regional affiliates, as well as in the sport community through a communiqué or an announcement via SIRC. Where deemed relevant and contingent on financial resources, the SDRCC may also publicize the opportunity through job placement intermediaries.

The call for applications shall contain, minimally, the anticipated remuneration rate for mediator and arbitrator services, the application form and a list of all documents required as attachments, the dates and location of the SDRCC Mediator and Arbitrator Conference which will be mandatory for new roster members to attend, and the instructions for applications (deadline, coordinates, etc.)

The frequency of the calls for applications will vary based on needs of the Centre but will typically occur every 3 to 4 years to follow the cycle of the SDRCC Mediator and Arbitrator Conference. All such public announcements must be made in both official languages of Canada.

**Authority**

Only the Board of Directors can approve final nominations of mediators and arbitrators to the SDRCC roster. The ADR Services Committee is mandated by the Board of Directors to review all applications and recommend a slate based on its assessment of each candidate against the criteria set out in the present document.

### **Composition of the Roster**

In establishing the final composition of the recommended roster, the ADR Services Committee will take into consideration the needs of the Dispute Resolution Secretariat with regards to the size of the roster, the mediator/arbitrator ratio, the bilingual capacity of roster members, and Canada's regional, cultural and gender diversity more generally.

### **Duration of Mandates**

The ADR Services Committee can make a recommendation to the Board of Directors as to the length of appointment of the roster as a group, giving consideration to several relevant factors such as recent attrition rates, changes in services offer and demand, as well as next opportunity to conduct an orientation session and a Mediator and Arbitrator Conference.

### **Renewal of Mandates**

Roster members applying for renewal are not automatically selected. Considerations will be given to their applications in the context of the broader needs of the SDRCC and quality of new applicants, as well as the overall roster capacity to meet the demands of the tribunal and contribute to the betterment of the SDRCC. A healthy turnover will also be encouraged to allow a balanced generational representation as described herein.

Such considerations may include: general availability to accept appointments, number of cases accepted, attendance at annual conference, autonomy with SDRCC technological tools, quality of work, quality of decision-writing, feedback from parties, respect of invoicing guidelines, input from SDRCC staff on other criteria as deemed necessary, etc. The selection committee will also give consideration to inconsistencies between self-declared competencies in previous applications and the performance of the roster member in question.

## **SPECIFIC SELECTION CRITERIA**

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In reviewing individual applications for the roster, the ADR Services Committee will also take into consideration more specific needs as detailed below.

### Geographical location:

All other things being equal, the SDRCC will favor candidates having their main place of business in Canada. The SDRCC reserves the right to select mediators or arbitrators who practise outside of Canada as long as this person meets or exceeds the other selection criteria herein and is considered to be able to contribute to the SDRCC enhancement more than other Canadian-based candidates.

Roster members who move abroad during a mandate will be allowed to remain on the roster until the next renewal opportunity.

Whether selected as such or moved mid-mandated, roster members who do not live in Canada will be required to bill the SDRCC in Canadian funds. When travelling for SDRCC business, including for the annual conference, their travel costs will only be covered by the SDRCC as if travel took place from the closest Canadian city of this person's new location.

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## Selection Criteria and Process for Arbitrators and Mediators

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### Professional designations and credentials:

Candidates will be required to possess a designation issued by an ADR professional organization such as, but not limited to, the ADR Institute of Canada, Family Mediation Canada, or the Chartered Institute of Arbitrators.

Candidates without a designation but showing ADR training and diplomas or other relevant professional training and experience may also be considered, at the sole discretion of the selection committee.

Candidates not residing in Canada at the time of application shall be a member in good standing of a law society in Canada.

### Experience in conducting proceedings:

The SDRCC is seeking applicants who are currently active in the conduct of proceedings. Candidates will be required to indicate on their application form the number of proceedings conducted in the past two years. Candidates who have not conducted many recent proceedings are invited to provide an explanation for reporting lower numbers than would normally be for them.

**Arbitrator candidate:** Experience as sole arbitrator/adjudicator will be given precedence over experience as panel member. More weight will also be given to experience chairing a panel than being a panel member. Experience sitting as a judge will be considered relevant experience for arbitrator candidates. The candidate will have to supply a sample of a recent award for which he/she was the sole or primary writer (the award can be redacted if it contains confidential information).

**Mediator candidate:** Experience as mediator will be judged by the volume of mediations conducted alone or in co-mediation. The candidate will be required to provide letters of reference from two legal representatives of parties for whom they have recently conducted a mediation. Reference letters from colleagues, associates or former teachers/students will not be given any weight.

### Experience in conducting multi-party proceedings:

Close to 70% of ordinary (non-doping) tribunal cases at the SDRCC involve several parties. In team selection and funding disputes, for example, where the claimant seeks a spot on a team or financial support, one or more other athletes become affected parties since they are at risk of being dislodged from the team or lose their funding. Candidates will be asked the percentage of proceedings conducted in the past two years which involved more than two parties and illustrate through examples the type of multiparty disputes handled. Demonstrated significant experience in the conduct of multi-party proceedings will be considered an asset.

### Knowledge of the sport system and nature of disputes which may arise:

All other things being equal, candidates who show an understanding of the reality of federated sports or those having held positions in sport organizations at the highest possible levels of the sport system will be given preference. Relevant experience for this criterion includes having competed as a high-performance athlete, having coached or officiated at a high-performance level, having held decision-making positions (volunteer or remunerated) in sport organizations. Precedence will be given to experience in federated sport, however similar experience in professional sports will also be considered.

### Independence:

Parties to SDRCC proceedings sometimes seek roster members who are completely independent from the sport system and others prefer roster members who have intimate knowledge of the sport system from their involvement in various capacities. The roster selection process will ensure that there is a balance between the two profiles. Additional safeguards are in place on a case-by-case basis to guarantee independence from the parties and from the issues in dispute. Candidates are encouraged to explain in their applications to which group they think they belong and why.

In particular, candidates will be required to disclose on their application form any current or recent (past two years) membership and/or affiliation with the SDRCC or its potential clients. Candidates will also be required to list all national sport organizations or multisport organizations funded by Sport Canada for which they have conducted business in the past two years and in what capacity (e.g. policy review, conduct of appeals, investigations, legal representation, employment, etc.)

### Previous experience in sport law, ADR or SDRCC:

Candidates are encouraged through the application process to describe in sufficient detail any experience they may have in the following areas:

- Legal work in federated sports;
- SDRCC;
- Conducting proceedings for CAS;
- Sport Law Connect Program.

### Generational Representation:

The SDRCC is proud to count among its members some who have been in its ranks for almost two decades and wishes to ensure that they are offered an opportunity to help younger generations of arbitrators and mediators to follow in their footsteps. In order to allow this, the selection committee will favor a healthy turnover to maintain a balance between the very seasoned arbitrators and mediators and the new generation of ADR professionals looking to apply their skills to resolve sport-related disputes.

### Bilingualism:

All other things being equal, capacity to conduct proceedings in both official languages will be considered an asset. In order to ensure availability of sufficient bilingual mediators and arbitrators on the SDRCC roster at all given times, incapacity to conduct proceedings in both official languages may be sufficient alone to justify non-selection.

The SDRCC recognizes that someone can be bilingual without being capable of conducting proceedings in both languages. Candidates who indicate on their applications being able to conduct proceedings in both official languages may be convened to a telephone interview to test their linguistic capacities. In order to be considered “bilingual”, arbitrator candidates will be expected to be proficient enough in their secondary official language to write arbitral awards in that language.

### Decision writing skills:

This criterion applies only to candidates seeking selection as arbitrators or med/arb neutrals. SDRCC arbitrations are often conducted with parties who are self-represented with no or little legal knowledge. It is expected that SDRCC arbitrators are able to write awards that are clear, concise and properly reasoned to be understood by lay readers.

The award to be supplied by the candidate will be judged, inter alia, for

- Analysis of evidence including inconsistencies and making any necessary findings of fact;
- Respectful and sensitive to circumstances of parties and events;
- Well-reasoned and jurisprudentially sound;
- Clarity of content and writing style;
- Use of accessible language;
- Effectively communicates to the reader what the dispute is about;
- Readers understand what has been decided and why.

### Availability to respond to the nature of the requests (urgency):

A large number of SDRCC cases are conducted in very short timeframes, requiring resolution or final decisions within 5 to 7 days or less. Candidates have to acknowledge as part of their application that their practice is conducive to being available on short notice to conduct procedures of urgent nature, with little or no advance notice.

### Use of technology:

Candidates have to accept that the majority of SDRCC proceedings are conducted by telephone and videoconferencing and that their capacity to fully participate in such context is incumbent on them to learn and become proficient and autonomous with the SDRCC technological tools.

### **Telephone Interviews**

The SDRCC reserves the right to conduct telephone interviews to assess the candidates' self-declared competencies and experience, including, but not limited to, their capacity to work in both official languages, their availability to conduct time-sensitive proceedings, and their proficiency with the technology used by the SDRCC.

### **Final and Binding Decisions**

The SDRCC reserves the right to refuse to appoint candidates to the SDRCC roster for any reason (including limiting the number of candidates on the roster). There shall be no appeal from the SDRCC decision.



## ADDITIONAL SELECTION CRITERIA FOR SPECIALIZED ROSTERS

### Specific Selection Criteria for Doping Tribunal Roster:

*The Doping Tribunal provides arbitration services for the application and enforcement of the Canadian Anti-Doping Program (CADP). The CADP is administered by the Canadian Centre for Ethics in Sport and is compliant with the World Anti-Doping Code. Doping cases arise out of assertions by the CCES of anti-doping rule violations against members of the Canadian sport community. The CADP provides a very strict framework within which decisions are rendered on, among others: provisional suspensions, whether an anti-doping rule violation took place, what consequences if any should be imposed, etc.*

In order to be considered to join the Doping Tribunal roster, in addition to meeting the general selection criteria for SDRCC arbitrators, a candidate shall:

- have been an arbitrator of the SDRCC for at least 8 years; or
- have rendered awards on merits in at least 4 SDRCC cases; or
- have adjudicated doping cases at the Court of Arbitration for Sport or other sport tribunals.

Candidates having acted as arbitrators on doping matters before, whether at the SDRCC or another sports tribunal, will be given precedence over those who have not. Once named to this specialized roster, arbitrators will be required to attend mandatory training on doping-specific matters in order to remain on the list until the next roster appointment process.

### Specific Selection Criteria for Safeguarding Tribunal Roster:

*The Safeguarding Tribunal provides arbitration services for the application and enforcement of conduct rules as they pertain to abuse, harassment and other forms of maltreatment in sport. The Safeguarding Tribunal rules allow for procedural accommodations to protect minors and vulnerable persons who may be called to testify.*

In order to be considered to join the Safeguarding Tribunal roster, in addition to meeting the general selection criteria for SDRCC arbitrators, a candidate shall have experience judging or conducting arbitrations pertaining to:

- human rights issues;
- family law;
- workplace harassment / employment law; or
- criminal law.

### Specific Selection Criteria for Safe Sport Mediator Roster:

*In mediating harassment and abuse cases over the past couple years, the SDRCC recognizes that special skills and knowledge are required to conduct these mediations in a way that is consistent with the goals of the Abuse-Free Sport program. The intent is to offer services that are compassionate, safe, and respectful.*

Key experience sought for this specialized roster includes:

- Knowledge of and demonstrated experience in applying trauma-informed practices;
- Experience mediating with vulnerable parties; and
- Experience mediating in the context of a power imbalance;

Shortlisted candidates are required to take part in an interview prior to the final selection decision.