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***Guide to the Development of an Appeal Policy***

***(Simplified Version)***

*March 2018*



Important Notice

The present document has no official value and must not be given the value of a legal opinion.

The Sport Dispute Resolution Centre of Canada (the Centre) and the members working under its auspices shall not be held liable for any consequences arising from the application or the use of this document.

It is strongly recommended to consult a legal advisor for the drafting, the revision and/or the application of any internal appeal policy in order to prevent any error for which you could be held liable.

If you have any questions regarding this document, please contact the Sport Dispute Resolution Centre of Canada. Our staff will address them or guide you to the appropriate key contact, if need be.

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# Introduction

The Centre is responsible for both prevention and resolution of disputes. Through its Dispute Prevention Resource Centre[[1]](#footnote-1), interested individuals have access to a vast array of educational materials, tailored to meet the specific needs of athletes, coaches, officials, administrators, sport organizations and the legal community.

However, despite education and prevention measures, the reality is that disputes can occur within your organization. This document has been developed to assist sport organizations in effectively managing these situations.

An internal appeal policy is a document that sets out the principles and procedures to be followed when a decision made by the sport organization is challenged by one of its members. Such policy is not designed to prevent disputes, but it does provide a means to resolve them fairly and equitably.

In this document, you will find an example of an appeal policy which provides your sport organization with a solid basis to develop an internal appeal policy. Obviously, there is no “one-size fits all” in designing an internal appeal policy. Policies will differ, depending on a variety of factors including the size of the organization, available resources, and past experience. This simplified model is intended specifically for sport clubs and small sport organizations operating at the regional or provincial/territorial level. Larger sport organizations or those with more resources (larger provincial or territorial federation, national and multisport organizations) would benefit from consulting the standard internal appeal policy model on the Centre’s website.

If the present model is suitable for your organization, take the time to review this document carefully and adapt the model to meet your particular needs. Involve your members in the policy development and implementation. Do not hesitate to seek outside expertise, if needed.

Additional assistance is available through the Centre by calling toll-free 1-866-733-7767 or by email at [tribunal@crdsc-sdrcc.ca](mailto:tribunal@crdsc-sdrcc.ca).

# Essential Principles

### Rules of Natural Justice

These are the core rules that must be observed in all cases where the decision will affect one of the parties involved. Failure to follow one of these fundamental rules will make the decision vulnerable to being appealed, in arbitration or even in civil courts. There are two rules of natural justice:

*Audi alteram partem* - The right to be heard in a dispute:

This includes, but is not limited to:

* Informing the person of the facts on which any decision will be based so that he or she can prepare a defence;
* Giving this person sufficient time to prepare such defence;
* Notifying this person of the time, date and location of the hearing;
* Informing this person of any documents in the possession of the other party; and
* Allowing this person to present evidence by any means deemed appropriate to the case at issue (questioning of witnesses, reply to the arguments of other party, etc.), including the right to be represented by counsel or by any other representative so authorized by this person.

*Nemo judex in causa sua* - The right to an objective and impartial decision:

This includes, but is not limited to:

* Having a right to a fair hearing process; and
* Being protected against any conflict of interests of the decision-makers.

### Administrative Rules

Rules governing how a case will be managed.

This includes, but is not limited to:

* The means to be used to share documents with the parties;
* The deadlines by which documents are to be transmitted; and
* The format chosen for the hearing process (in writing, by telephone, in-person, etc.)

These rules can vary from one organization to the next. However, it is important that they do not breach the rules of natural justice, which must be observed at all times

For example, an organization can decide the deadline that it deems reasonable for a member to file a formal notice of appeal; however, it is crucial that all the evidence submitted to the appeal panel be made available to all parties.

### Conflict of Interest

A conflict of interest is a fact or specific circumstance that may cause a person to lose his or her impartiality or objectivity in a case. Such a situation places an individual in a position where his or her own interests are in conflict with those of the parties involved. There is no fixed set of circumstances that automatically trigger conflict of interest; it all depends on the specific facts.

For example, some situations that could potentially cause a conflict are:

***A financial interest or any other direct interest in the outcome of the dispute***. For example, a case in which a member of the appeal panel is a sponsor or has a financial interest in ensuring that one of the parties wins the case.

***A relationship with or link to individuals with a direct interest in the outcome of the dispute***. For example, a case in which a member of the appeal panel is a family member of one of the parties involved in the dispute.

***A prior knowledge or involvement in the matter that led to the dispute***. For example, a case in which a member of the appeal panel rendered the decision that is being appealed, such as a coach in a team selection dispute.

Naturally, situations of conflict of interest must be avoided at all cost, because they violate the rules of natural justice whereby every person has the right to an impartial and objective hearing. During the entire appeal procedure, it is absolutely essential that all individuals involved in the management and the determination of the appeal be free from conflicts of interest. In fact, the Centre’s publication entitled “Conflicts of Interest in Sports-Related Decision-Making” can be consulted for more information on this question.

# Preparing to Adopt and Implement the Policy of an Organization

Below are a few suggestions to guide the implementation of an internal appeal policy or the revision of a current policy:

Before adopting a new policy, it is highly recommended to:

* Review the organization’s past experiences to identify what needs to be kept and what needs to be corrected;
* Evaluate the human and financial resources in order to ensure the most efficient use of such resources and that the policy is consistent with the organization’s capacity to implement it;
* Inform members of the revision process or the new upcoming policy and give them an opportunity to voice their opinions and make suggestions;

*Involving members in the process of developing, reviewing or implementing the appeal policy will foster communication and common understanding of the policy by a larger number of members.*

* As much as possible, consult with an expert in drafting the appeal policy.

After the adoption of a new policy, it is recommended to:

* Publish the policy and make it easily accessible to members, using whatever means considered appropriate (official website of your organization, signage at special events, direct emailing, etc.);
* Encourage members to ask questions about the policy or policies; and
* Establish a list of volunteers willing to sit on an appeal panel in case of an eventual dispute. You may direct these volunteers to the Centre’s online “Appeal Panel Orientation” program for a short interactive overview of their role as appeal panel members.

After the implementation of an appeal policy, it is necessary to comply with it. A wrongful application of the policy or the adoption of an incomprehensible policy can have undesirable effects, not only for the organization but also for the appeals that will be subject to it. It is therefore essential to ensure that the policy adopted is respectful of the organization’s reality.

# General Overview of an Appeal Process

### Formal Appeal by a Party

A member may appeal the decision that it wishes to challenge within its sport organization through a written notice of appeal. Such application may be made by filing a form specifically for this purpose (an example is provided in Appendix B).

### Receipt and Handling of the Notice of Appeal

The person receiving the notice of appeal from the appellant, called the appeal officer, may not be the person who rendered the decision being challenged and must be free from conflicts of interest. Ideally, this person has a permanent status within the sport organization, such as an executive director, or a key volunteer such as the president of the organization.

The appeal officer does not decide on the outcome of the appeal, but plays a vital role in the "administrative" management of the appeal until a panel is appointed according to the appeal policy.

### Initial Review of the Appeal

The appeal officer determines whether the appeal is admissible under the appeal policy. Generally, to qualify, the notice of appeal should have been filed within the prescribed timeline, refer to a matter within the jurisdiction of the appeal panel and be based on admissible grounds as stated in the applicable policy. For example, the policy may expressly exclude appeals related to employement and human resources matters, given that such dispute should be handled by the provincial/territorial labour board. On the other hand, the policy may allow members to appeal matters affecting their participation in sport, such as elibigility, selection, disciplinary sanctions or funding.

### Notification to Respondent and Request for a Written Declaration by the Respondent

The appeal officer notifies the party whose decision is contested of the existence of the procedure initiated by the appellant. Thus, the notice of appeal and the documents filed by the appellant are forwarded to the respondent who then has to file a similar document to explain its own version of the facts (see example in Appendix C). That written declaration, with any supporting documentation attached, must then be transmitted to the appellant.

### Establishment of the Appeal Panel

The appeal officer oversees the establishment of the appeal panel, to be responsible for ruling on the case. This must be done according to the appointment criteria outlined in the appeal policy. Appeal panel members must be free from conflicts of interest.

### Identification of Interested Parties

Based on the nature of the appeal, it is possible that there be interested parties (those who risk losing a previously granted privilege or status if the appellant is successful). The chairperson of the appeal panel should ensure that interested parties are duly notified of the appeal process and given an opportunity to participate. Doing this will avoid having multiple consecutive appeals on the same issue.

### Pre-Hearing Preparation and Hearing

The appeal panel, in consultation with the parties, decides on a date, time, format and location of hearing that suits the needs of all. If parties cannot agree, the panel should have the authority to rule on those matters.

The hearing is the time for all parties to gather in order to present their evidence and witnesses, to defend and support their respective positions before the appeal panel.

### Decision on the Appeal

The appeal panel renders a decision giving the final verdict, in which it must elaborate on the reasons for such decision. When the appeal is urgent, the final verdict can be sent to the parties as soon as possible, with a more detailed version of the reasons for said decision to be provided later.

### Arbitration or mediation

An appeal policy may allow an external recourse to deal with any dissatisfaction on the part of the parties concerning the internal procedure or the result of the appeal. Arbitration or mediation services, such as those offered by the Centre or by certain provincial organizations, may be helpful in such situations in order to avoid lengthy and costly appeals before the civil courts.

# Services of the Sport Dispute Resolution Centre of Canada

## About the Centre

The Sport Dispute Resolution Centre of Canada is an independent organization constituted by the *Act to Promote Physical Activity and Sport* (S.C. 2003, c. 2), which offers a national alternative dispute resolution service. This service is intended for the sport community.

The two main services of the Centre are the following:

The **Dispute Prevention Resource Centre** offers several online tools and resources to prevent sports-related disputes and to help the sport community better manage disputes when they occur. These services are available at no cost to all members of the sport community. The present document forms part of such resources and you can also find:

* A database of arbitral awards by Centre’s arbitrators;
* A library of publications regarding dispute prevention and alternative dispute resolution, with an index that is searchable online;
* Several educational publications on a variety of topics such as athletes’ rights and responsibilities, main causes of disputes and prevention strategies, team selection policy guidelines and checklist, appeals of carding decisions, guide to administrative fair play, etc.;
* Interactive educational resources such as the Internal Appeal Panel Orientation Program;
* In the Neutral Zone newsletter, published three times a year;
* A list of legal representatives specialized in sport law; and
* Model clauses, agreements and policies as well as links to additional external resources.

The Centre’s staff can present an information kiosk at sport events or conferences, or conduct workshops on prevention and resolution of sports-related disputes.

Contact the Centre's education staff at [education@crdsc-sdrcc.ca](mailto:education@crdsc-sdrcc.ca) for more information on available options

The **Dispute Resolution Secretariat** (tribunal) provides a wide array of alternative dispute resolution services adapted to all needs, whether for simple or complex cases, urgent or not, involving two or more parties. The Centre’s arbitrators and mediators are especially trained on the specificity of the sport system; they are therefore able to understand the context of sports-related disputes and the unique challenges that they raise.

## When is a recourse to the Dispute Resolution Secretariat of the Centre called for?

According to the Canadian Sport Dispute Resolution Code, a claimant may use the services of the Secretariat of the Centre once all internal remedies of the sport organization are exhausted, unless the parties agree to proceed directly before the Centre. This current model policy proposes an optional clause referring to the Centre as an external appeal body, which can be added at the end of an appeal policy.

Any sport organization can use the sport dispute resolution services of the Centre under its fee-for-service program. In such case, the use of an external appeal clause should provide a mechanism to determine who will be responsible for the payment of the Centre’s services.

In the absence of an appeal clause, the parties to a sports-related dispute may still avail themselves of the Centre’s services through a voluntary agreement signed by all parties recognizing the jurisdiction of the Centre to resolve their dispute.

The Centre's mediators constitute a valuable resources to facilitate an amicable resolution at an early stage of a dispute, saving the organization much trouble and expenses by avoiding a formal hearing process before an appeal panel.

Contact the Centre's case management staff at [tribunal@crdsc-sdrcc.ca](mailto:tribunal@crdsc-sdrcc.ca) for more information on available options.

# “Model” Appeal Policy Template *(simplified version)*

**A word of caution**: this is an example of an appeal policy. It represents a generic model that may work for most small to medium sized sport organizations. One must keep in mind that once a policy is adopted, the organization is bound to comply with it. It is appropriate to study this model carefully to understand the information and concepts within it, in order to be able to adapt the model to the needs of the sport organization wishing to have such a policy.

In this section, the left column suggests a text for the appeal policy, ABC referring to the name of the sport organization, while the right column provides additional information to explain the purpose of the clause or stimulate thought on the part of the policy drafter. This information could be useful not only during the development of an appeal policy that is suitable for the organization in question, but also during its implementation.

## 

## General Provisions

Section Comments

### Preamble

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| --- | --- | --- |
| * 1. ABC recognizes the right of any Member to appeal the decisions of ABC and hereby provides for an appropriate process to resolve, fairly, expeditiously and affordably, disputes that could arise from time to time from these decisions.   2. In this policy, unless context otherwise requires, words in singular include the plural and vice versa; words importing gender include all genders. |  | It is important to be reminded of the right of any party to appeal a decision that it considers unfair or unjust, and that this process is intended to be fair, expeditious and affordable. |

### Definitions

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| **Appeal Officer:** Refers to the person who receives the Notice of Appeal from the Appellant;  **Appeal Panel**: Refers to the appeal panel established as provided by section 8;  **Appellant** (also referred to as “Party”): Refers to a Member appealing a decision of ABC;  **Days**: Means total days, irrespective of weekends or holidays;  **Interested Party** (also referred to as “Party”): Refers to an individual who can be directly affected or impacted by a decision of the Appeal Panel and:   * Is accepted as such by the Parties; or * Is accepted or named as such by the Appeal Panel;   **Member**: Refers to all categories of members of ABC, as well as to all individuals engaged in activities with or employed by ABC, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators, clubs or regional sport organizations and employees, including contract personnel;  **Notice of Appeal**: Refers to a notice filed by the Appellant through the form attached as Appendix B;  **Respondent** (also referred to as “Party”): Refers to the body, person or persons whose decision is being appealed;  **Statement**: Refers to the written response submitted by the Respondent through the form attached as Appendix C;  **Working Days**: Means total days, excluding weekends and holidays. |  | *The person designated to receive the notice of appeal (appeal officer) may not have a relationship with any of the parties in order to undertake the admimnistrative management of the appeal process in a climate of trust.*  *Deadlines are provided for information purposes only. It will be necessary to amend the appendices if the appeal policy of the organization calls for different time frames.*  *The term “member” is broadly defined to include not only actual members but also all persons who participate in the activities of the organization. Note also that many national sport organizations do not have individual “members.” Thus the defined term must include participants. To find out what’s best for the organization in question, it is recommended to check its bylaws to see how “member” is defined.* |

### Scope of Appeal

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| 1. Any Member of ABC who is affected by a decision of the Board of Directors, of any committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of ABC or its Board of Directors, will have the right to appeal that decision, provided there are sufficient grounds for the appeal, as set out in section 4. 2. Without limiting the scope of sub-section 3.1, this appeal policy will not apply to decisions relating to:  * Doping offences, which are handled in accordance with the Canadian Anti-Doping Program; * Disciplinary matters arising during events organized by entities other than ABC, which are dealt with under the policies of these other entities, provided that they have an appeal policy in place; * Criminal offences for which the Appellant is seeking a criminal conviction; * Commercial matters for which another appeal process already exists under the applicable law or contract; and * Labour disputes for which another appeal process already exists under the applicable law or contract. |  | A clause defining precisely to whom this policy applies is essential.  In this section, it is recommended to define what decisions may be appealed, and what decisions may not be appealed.  Decisions that may be appealed include, but are not limited to, matters relating to the following: team selection, carding, harassment, discipline, eligibility, athlete agreements, governance, etc.  It is preferable not to limit the type of decisions that may be appealed in order to avoid unfairness in the event that a new situation arises that would be unduly excluded from the appeal process..  On the other hand, the list of decisions that cannot be appealed must be explicit and exact.  *Some offences committed by a member of the organization may be of a criminal nature. It is preferable to have these requests handled by a court that has jurisdiction in such matters. However, if the policies of the organization (such as a code of conduct for members) provide for civil sanctions (for example, suspension of the member at fault, fine, etc.) for such infractions, the appeal could be heard in accordance with the internal appeal policy in the form of a disciplinary matter.* |

### Grounds for an Appeal

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| 1. An Appellant cannot challenge a decision only on the grounds that it is not favorable to him or her. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the Respondent:  * Making a decision for which it did not have authority or jurisdiction as set out in governing documents; * Failing to follow procedures as laid out in the bylaws or approved policies of ABC; * Making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views and/or that the decision was made on the basis of, or significantly influenced by, factors unrelated to the merits of the matter; * Exercising its discretion for an improper purpose; and/or * Making a decision that was unreasonable or unfair. |  | *A clause specifying the grounds on which an appeal may be filed is essential.*  *Appeals are not meant to re-decide matters that were already addressed. They are for correcting errors in decision-making. An appeal policy exists to make sure that decision-makers make only those decisions they have the power to make, that decision-makers are unbiased, and that decisions are made fairly and according to the policies and procedures of the organization.* |

## Procedures

Section Comments

### Filing of Notice of Appeal

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| 1. Members who wish to appeal a decision of ABC that affects them must initiate the appeal process by completing and filing the Notice of Appeal (see Appendix B) with the Executive Director of ABC or, if the decision being appealed was rendered by the Executive Direcor, with the President of ABC within fifteen (15) days from the date they received notice of the decision. 2. Other timelines provided for in this policy can be amended by the Appeal Panel when justified by the circumstances. |  | The information provided in the notice of appeal is important to properly start the process. They are also useful for ensuring that the appeal officer is impartial before beginning its initial screening. The policy could designate an alternate person, in case the decision being appealed was rendered by the person who would normally receive the notice.  An incomplete notice of appeal should not be ignored; the appeal officer should, in such case, contact the appellant to obtain the missing information needed to proceed.  A clause specifying the delay within which an appeal must be filed is essential. The appeal must be submitted within a reasonable length of time. The main reason for imposing a time limit to initiate an appeal is that, if too much time goes by, the point may become “moot” – in other words, it will be too late for an effective remedy to be available to the appellant. |

### Initial Screening of Appeal

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| 1. Upon receipt of the documents relating to the appeal, the Appeal Officer will decide whether the request is admissible with regards to:  * The Appelant is a Member of ABC as defined in section 2; * The deadline for filing the Notice of Appeal has been met; * The decision being appealed is not among the exclusions listed in sub-section 3.2; and * The grounds of appeal set out in the Notice of Appeal are among those mentioned in sub-section 4.1.  1. If the right to an appeal is denied on the basis of any of the admissibility criteria in sub-section 6.1, the Appellant will be notified in writing, within two (2) working days from the receipt of the Notice of Appeal, of this decision and its reasons. |  | *Some organizations may be wary of frivolous requests and want to avoid having to establish an appeal panel for nothing, as this latter step can be complicated if a list of volunteers does not already exist. For that reason, the initial screening of the appeal may enable an organization to avoid this step in the rare cases when the appeal is obviously unfounded.*  *Not all appeals submitted will satisfy the grounds and thus not all appeals should be automatically accepted.*  *However, the appeal officer must make that first decision with the utmost care. In fact, upon initial review, an appeal may sometimes be rejected prematurely for being judged to have no valid ground. It is not within his or her power to determine if the appellant has any chance of success. When in doubt, the appeal officer should let the appeal proceed and leave it in the capable hands of the appeal panel to hear all the evidence before deciding on the matter.* |

### Notification of the Appeal and Statement by the Respondent

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| 1. If the appeal is deemed admissible, the Appeal Officer will forward a copy of the Notice of Appeal to the Respondent within a delay of no more than one (1) working day and request a written Statement (see Appendix C) by the Respondent briefly outlining the justification for the decision or the practice being appealed. 2. The written Statement, completed and signed, shall be forwarded to the Appeal Officer within five (5) working days from the date of receipt of the Appeal Officer’s request or such shorter or longer period as the Appeal Officerl may specify depending on the urgency of the matter. 3. The Appeal Officer must forward a copy of the written Statement to the Appellant without delay after receipt. 4. Should the Respondent submit an incomplete Statement or fail to submit the written Statement within the time-limit provided by sub-section 7.2, the Appeal Officer will initiate the establishment of the Appeal Panel, without further delay. |  | *These forms must contain as much information as possible, because they form the basis for the analysis of the case by the appeal panel. It is therefore in the parties’ interest to complete them carefully and, not to to hide certain information in an attempt to surprise the other party at the hearing of the case by the appeal panel.*  *The respondent could be tempted to derail the process by refusing to comply with a particular request; in such case, letting time elapse may even play in his/her favor. For an appeal policy to be effective, all parties must comply with it or, at the very least, that actions can be taken to ensure that a party cannot make it ineffective by refusing to comply. It is therefore important to have a specific procedure in place in the event that one of the parties refuses to take the required action within the prescribed timeframes.* |

### Appeal Panel

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| 1. Within no more than ten (10) working days of having received the Notice of Appeal, the Appeal Officer will initiate the establishment of an Appeal Panel as follows:  * The Appeal Panel must include three persons named from a list of volunteers pre-established by ABC for this purpose; * The Appeal Panel will consist of one person nominated by the Appellant, one person nominated by the Respondent and the third person, who shall act as chairperson of the Panel, nominated by the Appellant’s and Respondent’s nominees to the Panel, or failing agreement by such nominees, appointed by Appeal Officer; and * Should the Respondent fail to submit the written Statement, as provided by sub-section 7.2, the Appeal Officer will nominate one person on behalf of the Respondent.  1. All three members of the Panel must be nominated respecting the following conditions:  * They must have no significant relationship with the Parties involved; * They must have no involvement whatsoever with the decision being appealed; and * They must be free from any actual or perceived bias or conflict of interest. Being a “peer” of the Appellant or the Respondent should not in itself constitute bias or conflict of interest.  1. As soon as they are nominated, the members of the Appeal Panel will be provided with a copy of the Notice of Appeal and the Respondent’s written Statement as well as any other exhibits filed by the Parties in support of their respective positions. |  | *A clause specifying how the appeal panel will be established (how many persons, nomination procedures and conditions, etc.) is essential.*  *Appeals are best heard by panels of three persons. Bringing more minds to hear a dispute usually results in a more informed and more principled decision. If the appeal panel consists of a single individual, it is recommended that this person possesses the necessary qualifications and experience to fulfill this role in a professional manner.*  *Members of the appeal panel who are acting in such capacity for the first time may benefit from the interactive “Online Appeal Panel Orientation Program" available at no cost in both official languages on the Centre’s website.*  *In order to comply with the principle of panel impartiality, the three members should be nominated by the parties or independent third persons. The principle is respected when each party nominates a panel member and the two selected members choose a chairperson.*  *Any individual can be named to a panel – they don’t have to be members of the orgainzation or involved in the sport. Many organizations try to include a “peer” member (athlete, coach or administrator) on the panel; it is a good idea, except that experience has shown that athletes are reluctant to sit in judgment of other athletes. When constituting a panel, the organization should be most concerned about bringing together thoughtful, independent and fair-minded persons. It is also a good idea to have a lawyer, or at least a qualified individual, to serve as chairperson of the panel.* |

### Identification of Interested Parties

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| 1. Upon its appointement, the Appeal Panel must notify potential Interested Parties of the existence of the appeal and invite them to take part in the proceedings. 2. The Interested Parties thus invited become Parties to the proceedings and therefore have the same rights as the Appellant and the Respondent to make submissions before the Appeal Panel with respect to the issues in dispute. |  | *Failure to identify and notify interested parties in an appeal process may cause for these individuals to file a further appeal in their own rights. It is therefore advisable to ensure that all members vulnerable to lose a previously granted status or privilege as a result of the appeal panel’s decision be invited to take part in the process.* |

### Pre-Hearing Planning

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| 1. The Appeal Panel, in consultation with the Parties, and considering the relative urgency of the matter, shall determine the procedural steps to take place before the hearing. 2. Within no more than five (5) working days of being established, the Appeal Panel shall communicate to all Parties the necessary information to enable their full participation, such as, but not limited to, the following:  * Timelines for exchange of documents; * Format of the appeal (written or oral submissions or a combination of both); * Date and location of the hearing, if applicable; and * Any other matter that may assist in expediting the appeal proceedings.  1. The Appeal Panel may delegate to its chairperson the authority to deal with these preliminary matters. |  | If possible and practical, these procedural matters could be discussed in a preliminary meeting or conference call of the parties. In case of disagreement, the appeal panel should always have the last word. |

### Procedures for the Appeal

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| 1. The Appellant has the burden of proof in an appeal and must prove, on a balance of probabilities that the decision being appealled is the result of a procedural error as described in section 4. 2. The Appeal Panel shall govern the hearing by such procedures as it deems appropriate, provided that the appeal is heard in a timely manner and that the principles of natural justice are applied at all relevant times. 3. Copies of any written documents which any of the Parties would like the Appeal Panel to consider shall be provided to the Panel, and to all Parties with an opportunity to reply. 4. Each party shall have the right to be represented at the hearing. 5. All three members of the Appeal Panel shall hear the appeal, but a majority in favour of the same result shall be sufficient to effect a decision. |  | *Under this template, the appeal panel is in charge of its own proceedings. While some guidelines are set out, the appeal panel is responsible for ensuring that the appeal is conducted fairly. Allowing the appeal panel to have this authority enables the appeal to be conducted in a flexible manner, adaptable to a wide range of situations, which cannot always be anticipated.*  *The principles of natural justice outlined in section “Essential Principles” of this Guide must be applied at all times. It is essential that all documents and information submitted to the appeal panel be transmited to all parties.*  *Under Canadian law, the right to representation cannot be denied to a person. Minors must be accompanied by a responsible adult. It does not have to be a parent or guardian: it could, for example, be a coach.* |

### Appeal Decision

|  |  |  |
| --- | --- | --- |
| 1. Within five (5) working days of the conclusion the hearing, the Appeal Panel will issue its written decision, with reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Appeal Panel cannot amend a policy, rewrite selection criteria or insert new clauses into a contract. The Panel may decide:  * To reject the appeal and confirm the decision being appealed; * To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; and/or * To uphold the appeal and vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality.  1. A copy of the decision will be provided to each of the Parties. 2. In extraordinary circumstances, the Appeal Panel may issue an oral decision or a summary written decision, with reasons to follow, provided that the written reasons are rendered within the timelines specified in Sub-section 12.1. |  | *A clause specifying the delay within which the appeal panel must render a decision after the hearing is essential.*    *The appeal panel may render an oral or summary decision very quickly. Sometimes this may be necessary, when the appeal panel has only a few hours to decide (not an uncommon situation with selection disputes). Reasons must still follow within a reasonable delay.* |

### Liability Disclaimer

|  |  |  |
| --- | --- | --- |
| 1. Except in cases of willful misconduct, the Appeal Panel and the Appeal Officer will bear no liability in respect of either of the Parties for any act or omission in connection with the resolution of a dispute in accordance with the policies of ABC. 2. The Appeal Officer and the members of the Appeal Panel cannot be called as witnesses during an appeal or before any court of competent jurisdiction, including with respect to costs. 3. No action or proceeding may be brought against ABC or its Members in respect of a dispute, unless ABC is failing or refusing to comply with the provisions with regards to appeals or dispute resolution as provided in the policies of ABC. |  |  |

### Arbitration and Mediation *(optional)*

|  |  |  |
| --- | --- | --- |
| 1. Any final decision made by the Appeal Panel that may lead to irreversible consequences for one of the Parties may be exclusively submitted by way of application to the Sport Dispute Resolution Centre of Canada (SDRCC), which will resolve the dispute definitively in accordance with the Canadian Sport Dispute Resolution Code, as amended from time to time by the SDRCC. 2. Should a matter be referred to arbitration or mediation, all Parties to the original appeal shall be Parties to this arbitration or mediation. 3. The totality of the costs of the SDRCC dispute resolution services will be borne by the person requesting such services, unless otherwise agreed upon by the other Parties. 4. The arbitral award rendered by the Sport Dispute Resolution Centre of Canada shall be final and binding upon all the Parties. |  | *After the internal process has taken place, it may happen that one of the parties deems the decision to be unfair or that an error of procedure may invalidate such decision. In such case, this party has a right to appeal this decision before an independent entity.*  *It is therefore recommended to include a clause in the policy providing for access to an external entity, should a party wish to file an appeal. Arbitration and mediation have the potential to resolve disputes out-of-court expeditiously and at lower costs than traditional recourses before civil courts.*  *The decision rendered by this external entity will then be final and binding upon all parties.* |

## Appendix A – Chart of Timelines

This table is intended as a guide to establish reasonable time limits in processing appeals. Each case having a different degree of urgency or complexity, it is appropriate to provide some flexibility; each appeal process launched must be completed in time for justice to be done. In case of an urgent appeal, for instance, the time will be shortened in order to render a decision before it is too late for the parties. It is recommended to use a percentage system to help determine reasonable deadlines in urgent cases. In a case that is not urgent but carries complex implications, insisting on the prescribed timelines set out in the policy could hinder the proper resolution of the matter.  
  
Also, the steps outlined in the table below may overlap and are not necessarily successive. Some steps will begin before the previous one ends. In some urgent cases, it may even be that certain steps can be consolidated into one. Timelines in the table below are for illustrative purposes only.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Step** | **Section** | **Days since Filing the Appeal** | | | | **Timelines According to the Model Policy (Ordinary Procedure)** |
| **Expedited Procedure** | | | **Ordinary Procedure** |
| Filing of Notice of Appeal | 5.1 | 1 | 15 | | | 15 days from the day on which the Appelleant was advised of the decision |
| Initial Screening of Appeal | 6.2 | 2 | 17 | | | 2 working days from the receipt of Notice of Appeal and related documents |
| Notice of Appeal transmitted to the Respondent | 7.1 | 2 | 18 | | | 1 working day from the completion of the initial screening |
| Statement of the Respondent | 7.2 | 3 | 23 | | | 5 working days from the date the Notice of Appeal was provided, or as may be specified by the Appeal Officer |
| Establishment of the Appeal Panel | 8.1 | 3 | 25 | | | 10 days following the receipt of the Notice of Appeal |
| Confirmation by Appeal Panel of Procedures to be Followed | 10.2 | 4 | 30 | | | 5 working days after the establishment of the Appeal Panel |
| Hearing | 11 | As required | | As agreed | | At the date set during the preliminary conference |
| Oral or Summary Decision | 12.3 | As required | | As agreed | | As required and depending on urgency |
| Written Reasons | 12.1 | Depending on the date of the hearing | | | | 5 working days after the end of the hearing |

## Appendix B – Sample Notice of Appeal Form

|  |  |  |  |
| --- | --- | --- | --- |
| Date : |  |  |  |
|  | DD | MM | YYYY |

**Appellant**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name |  | | | |
| Address |  | | | |
| Telephone (home) |  | | | |
| Telephone (office) |  | | | |
| Telephone (cell.) |  | | | |
| Email |  | | | |
| Date of birth: |  |  |  |
| DD | MM | YYYY |

**Representative of the Appellant** *(if applicable)*

*Note: An adult representative is mandatory for any Appellant who is a minor in the province where the proceedings are held.*

|  |  |
| --- | --- |
| Name |  |
| Address |  |
| Telephone (home) |  |
| Telephone (office) |  |
| Telephone (cell.) |  |
| Email |  |

**Decision**

What decision do you wish to appeal?

|  |
| --- |
|  |
|  |

Why do you think the decision is wrong or unfair?

|  |
| --- |
|  |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| When was that decision rendered? |  |  |  |
|  | DD | MM | YYYY |

**Respondent**

Who made the decision that you wish to appeal?

|  |
| --- |
|  |

**Grounds**

Please provide:

1. Grounds for the appeal (arguments); and
2. Summary of the evidence that supports these grounds (documents, pictures, rules and by-laws, audio-visual material, etc.)

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**Recourse**

What measure or decision do you ask ABC to take or make to correct the situation?

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| --- |
|  |

**Designation of an Appeal Panel Member**

According to the appeal policy, you may designate one person of your choice to sit as an appeal panel member. Please indicate the name and coordinates of the person you chose to designate:

|  |  |
| --- | --- |
| Name |  |
| Address |  |
| Telephone (home) |  |
| Telephone (office) |  |
| Telephone (cell.) |  |
| Email |  |

**Signature**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Signature: |  | | | |
| Name (print): |  | | | |
| Function/Title: |  | | | |
| Date: |  |  |  |
| DD | MM | YYYY |

## Appendix C – Sample Form for Respondent’s Statement

|  |  |  |  |
| --- | --- | --- | --- |
| Date : |  |  |  |
|  | DD | MM | YYYY |

**Respondent**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name |  | | | |
| Address |  | | | |
| Telephone (home) |  | | | |
| Telephone (office) |  | | | |
| Telephone (cell.) |  | | | |
| Email |  | | | |
| Date of birth: |  |  |  |
| DD | MM | YYYY |

**Representative of the Respondent** *(if applicable)*

*Note: An adult representative is mandatory for any Respondent who is a minor in the province where the proceedings are held.*

|  |  |
| --- | --- |
| Name |  |
| Address |  |
| Telephone (home) |  |
| Telephone (office) |  |
| Telephone (cell.) |  |
| Email |  |

**Justification**

Please provide:

1. Justification for the decision or practice being appealed (reasons); and
2. Summary of the evidence that supports this justification (documents, pictures, rules and by-laws, audio-visual material, etc.)

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**Interested Party(ies)**

Please provide, to the best of your knowledge, the name and contact information of any person whose selection, carding, ranking, or other status could be affected by the decision. Please also indicate the reasons why this person might be affected by the outcome of the procedure. For each Interested Party, please provide the following information (if more than one Interested Party, please attach the information to the form):

|  |  |
| --- | --- |
| Name |  |
| Telephone1 |  |
| Telephone2 |  |
| Email |  |

Reasons why this person could be affected:

|  |
| --- |
|  |
|  |

**Designation of a Panel Member**

According to the appeal policy, you may designate one person of your choice to sit as an appeal panel member. Please indicate the name and coordinates of the person you chose to designate:

|  |  |
| --- | --- |
| Name |  |
| Address |  |
| Telephone (home) |  |
| Telephone (office) |  |
| Telephone (cell.) |  |
| Email |  |

**Signature**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Signature: |  | | | |
| Name (print): |  | | | |
| Function/Title: |  | | | |
| Date: |  |  |  |
| DD | MM | YYYY |

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1. \* Dispute Prevention Resource Centre:

   <http://www.crdsc-sdrcc.ca/eng/dispute-resource> [↑](#footnote-ref-1)