

SPORT DISPUTE RESOLUTION CENTRE OF CANADA (SDRCC)
CENTRE DE RÈGLEMENT DES DIFFÉRENDS SPORTIFS DU CANADA (CRDSC)

Citation : Gray v. Bobsleigh Canada Skeleton, 2026 CASDRC 4

NO: SDRCC 26-0802
(ORDINARY TRIBUNAL)
DATE OF DECISION: 2026-02-06

BETWEEN:

CYRUS GRAY
(Claimant)

AND

BOBSLEIGH CANADA SKELETON (BCS)
(Respondent)

AND

JAY DEARBORN
TAYLOR AUSTIN
(Affected parties)

PARTIES AND REPRESENTATIVES

Appearances:

For the Claimant: Emir Crowne and Amanda Fowler, Counsel

For the Respondent: Adam Klevinas and Cristy Cooper, Counsel

Hearing: via Document Review on January 24, 2026

Arbitrator: David Merrigan, C. Arb.

DECISION WITH REASONS

1. On 24 January 2026, I issued a short decision for SDRCC 26-0802 denying the Claimant's appeal, with detailed reasons to follow within the period set by the Canadian Sport Dispute Resolution Code (Code).
2. This is my decision with reasons.

Background

3. The Claimant is a High-Performance athlete who competes at an international level as a Bobsleigh Pilot for Canada.
4. Bobsleigh Canada Skeleton (BCS) is the National Sports Organization which controls the process for selecting athletes for major games such as the Olympics.
5. For the upcoming 2026 Olympics, Canada has been allocated two Bobsleigh Pilot positions.
6. BCS did not choose the Claimant for either position.

The Position of the Claimant

7. The Claimant makes several arguments for me to consider:
8. Selection Hierarchy (Priority 2 vs. Priority 3): According to the policy, every quota spot must first be offered to athletes who meet the B Standard (Priority 2 / Next Generation (NextGen)) before those who qualify under the C Standard (Priority 3) are only then to be considered. The Claimant argues that, since he met the B Standard and Taylor Austin did not, he had the first right to the second quota spot.
9. The status of the National Bobsleigh Program (NBP) Push Standard: Non-Compliance Argument: The Claimant highlights that nominated pilot Taylor Austin recorded a push time of 5.42, which is a "failure" according to the published standard. Claimant argues that meeting this standard is a mandatory prerequisite.
10. Inconsistent Weighting: The Claimant alleges that BCS "waived" this failure for Austin while simultaneously ignoring the Claimant's superior physical scores (436 PPS vs. Austin's 349) and his compliant 5.14-second push.
11. Policy Evolution and "Moving Goal posts": The Claimant challenges the legality of the changes made to the Internal Nomination Procedures (INP) between February and May 2025.
12. He cites the changing the label of ranking criteria from "Performance Requirements" to "Performance Outcomes to be taken into consideration."

13. Validity of Performance Data (Mechanical Failure)
14. The Claimant disputes the use of his international ranking (34th) as a justification for non-nomination due to mitigating circumstances.
15. Equipment Issues: He argues that his "regression" was not a reflection of his driving ability but was the result of mechanical failures and an overused practice sled.
16. Unreasonable Basis: The Claimant contends that a decision reached based on "tainted" or unrepresentative data is inherently unreasonable and cannot stand under the Vavilov standard of administrative review.
17. Procedural Fairness and Disclosure: There is a dispute over the transparency of the selection process.
18. "Curated Urgency": The Claimant alleges that BCS created an unfair environment by providing a late team announcement and a 24-hour appeal window while initially withholding the High-Performance Committee (HPC) meeting minutes and decision-making data.
19. The Claimant argues that due to this procedural unfairness, the only equitable remedy is for the Arbitrator to substitute their own decision and name him to the team directly, rather than sending the matter back to the HPC for re-determination.

The Position of the Respondent

20. BCS asserts that it followed the required priority sequence (A Standard, followed by B, then C).
21. BCS states that the HPC has full discretion for B Standard nominations. Although the Claimant met the age-based NextGen criteria, BCS decided his performance did not justify selection compared to Jay Dearborn.
22. Once it was determined Claimant would not be nominated under the B Standard, he was evaluated under the C Standard alongside Taylor Austin.
23. BCS argues that the decision to nominate Taylor Austin over Claimant is evidence based and sport specific:
 - a. Austin outperformed the Claimant with a higher world ranking (19th vs. 34th), a sixth-place World Cup finish, and a top eight finish at Worlds.
 - b. Performance Regression: While nominated pilots improved, the Claimant's ranking declined from 30th to 34th.
 - c. Austin has 12 years' experience and success on the Olympic track, whereas the Claimant is less experienced, with technical issues, crashes, and no runs on the Milano Cortina track.

- d. BCS argues that including the Claimant would use excessive resources and could disrupt medal-focused preparations.
- 24. BCS explicitly denies the claim that no reasons were provided for the decision. Officials met with the Claimant on January 19 and 20, 2026. At these meetings, the Claimant received a verbal explanation of the decision along with detailed reasons for not being nominated, such as not reaching B Standard benchmarks relative to other candidates.
- 25. The Tribunal should show deference to the technical expertise of the HPC, as the decision falls within a range of acceptable and defensible outcomes based on the facts and the applicable policy.
- 26. BCS asks for the appeal to be rejected.

Affected Parties

- 27. Jay Dearborn and Taylor Austin have been named as the affected parties. They were served with notice of these proceedings but did not participate.

Issues

- 28. Did BCS follow its own Internal INP and whether the final decision was grossly unreasonable under the SDRCC Code?
- 29. Was the Claimant supposed to be nominated under the “B” Standard?
- 30. If I determine that the Claimant does not qualify for nomination under the B standard, the Claimant requests that I review his eligibility for nomination under the C standard before considering Taylor Austin (selected athlete).

Analysis

- 31. The Claimant believes he should have been appointed under the INP "B" Standard. The Respondent disagrees.
- 32. The Claimant argues that he met the foundational eligibility and most of the performance outcomes defined in the Internal Nomination Procedures (INP).
- 33. This belief is also based on a rigid view of the selection hierarchy and the fact that his physical abilities surpass those of the other nominee(s).
- 34. The Claimant argues that the INP establishes a mandatory sequence for filling quota spots: Priority 1 (A Standard), then Priority 2 (B Standard), and finally Priority 3 (C Standard).

35. He argues that, as a NextGen athlete who qualified under the B Standard, he ought to have been nominated prior to the committee reviewing candidates who only met the C Standard.
36. He claims that, had he been chosen under Priority 2, the last available spot would have been taken, so evaluating and selecting Taylor Austin (a C Standard athlete) would not have been needed or appropriate.
37. The Claimant maintains that he satisfied all necessary benchmarks to qualify as a "NextGen" pilot under the B Standard:
 - a. He met the age threshold (born in 1994 or later) and confirmed his intent to participate in the 2030 Winter Olympics.
 - b. He met the required push time with 5.14 seconds, while Taylor Austin did not (5.42 seconds).
 - c. His Physical Performance Score (PPS) of 436 led all pilots and surpassed Austin's 349. He finished second at the Canadian Push Championships and fourth at the Canadian Championships, viewing these as meeting performance criteria.
 - d. He believes the "top 20 or better" International Bobsleigh and Skeleton Federation (IBSF) rank is not a strict requirement.
 - e. BCS unilaterally changed policy wording (in the INP) from "Performance Requirements" to "Performance Outcomes to be taken into consideration"; this disadvantaged him.
 - f. He argues any evaluation uncertainty due to vague language in the INP should favor the athlete, *per contra proferentem*.
 - g. He disputes that "technical inconsistency" or "driving regression" justified his exclusion.
 - h. He attributes his international ranking (34th) to mechanical and equipment issues, not driver skill.
 - i. He considers it unreasonable that a veteran pilot's push standard was waived while his race data was used to deny him a B Standard spot.
38. The Respondent takes the following positions in response to the Claimant's allegations:
 - a. BCS states that meeting the NextGen B Standard does not guarantee nomination; selection is at the HPC's discretion and requires multiple performance criteria.
 - b. The Claimant was assessed under the B Standard with Jay Dearborn. After his results were deemed insufficient for nomination, he was compared to Taylor Austin under the C Standard.

- c. Physical strength and push standard scores are acknowledged but viewed as inadequate compared to required pilot experience.
- d. Austin was prioritized for meeting "Partial A Standard" benchmarks, including high World Cup and World Championship finishes, which the Claimant did not achieve.
- e. In the 2025 Canadian Championships, Austin placed first in both events, while the Claimant placed fourth.
- f. "Top 20 combined ranking" and "year-over-year progression" are cited as objective B Standard assessment tools in the INP.
- g. The Claimant's international ranking declined, whereas Dearborn's improved significantly.
- h. The INP should be interpreted to prioritize athletes with higher medal potential.
- i. BCS viewed Austin's international results as stronger than Claimant's physical test scores.
- j. Coach evaluations found the Claimant inconsistent technically and slow to learn new piloting concepts.
- k. The Claimant lacks experience on the 2026 Olympic track; Austin has competed there, finishing 11th at the test event.
- l. Mechanical failure claims were not seen as justification for the Claimant's ranking decline; technical reports indicate the Claimant remains at a development level versus Austin's stability.

The B Standard

- 39. The Claimant, in their submissions does not dispute that the May 2nd, 2025, version of the selection policy was the one in place for the relevant nomination period.
- 40. This is the same version that all BCS athletes had to abide by for eligibility to be nominated for the upcoming 2026 Olympics.
- 41. Given that the INP had been agreed up by the Claimant almost 8 months prior to this dispute, I have difficulty accepting their argument that it was unclear or ambiguous at this late juncture.
- 42. Counsel for the Claimant suggests that I apply the principle of *contra proferentem* and resolve any ambiguity they cited in favor of the Claimant.
- 43. Particularly, he argues that the change between the wording of "Performance Requirement" to "Performance Outcomes to be taken into consideration" should not be allowed to stand.

44. The Claimant argues that if BCS truly intended the "top 20 or better" ranking to be a mandatory gatekeeping requirement, it was their responsibility as the drafter to state that explicitly.
45. Since they did not, he contends the ambiguity must be resolved in his favor, making the B Standard a "multi-factor test" rather than a prerequisite-based one
46. I disagree.
47. The most recent Internal Nomination Procedures, released on May 2, 2025, were prepared by the High-Performance Director (HPD) and reviewed by several relevant groups and organizations: the BCS High Performance Committee, the Canadian Olympic Committee (COC), National Team Athletes, and the BCS Selection Committee.
48. While BCS had ultimate control of the final document, it is evident that they sought feedback from the relevant stakeholders.
49. BCS athletes had time to review the INP and agreed to be bound by it - regardless of the changes in previous versions.
50. The Claimant, having previously agreed to be bound by the INP, asks me to exercise my discretion to change the terms now.
51. I am unpersuaded to do so now.
52. I do not agree with the Claimant that phrases such as "Major Games" or "Performance Outcomes to be taken into consideration" are vague enough to have affected his understanding of the INP requirements.
53. If these alleged ambiguities were of concern, the time to seek clarification passed prior to the date of this appeal.
54. The Claimant was technically prima facie eligible for the B Standard (NextGen Games Experience) because he met the age threshold (born in 1994 or later) and confirmed his intent to participate in the 2030 Olympics.
55. In its submissions, the Respondent writes:

"With regard to the B Standard, being "Priority 2" in the INP, nomination under this standard was available on the following basis: "athletes must meet NextGen requirements and achieve more than one of the performance outcomes outlined in the B Standard to be considered for nomination at the sole discretion of the HPC"
56. I am satisfied that the wording of the INP clearly identifies a conditional agreement with ultimate discretion reserved for the HPC, particularly in section 6:

“...To fulfil this objective, athletes must meet NextGen requirements and achieve more than one of the performance outcomes outlined in the B Standard to be considered for nomination at the sole discretion of the HPC.”

57. I have determined that although he was eligible, the INP requires a favorable outcome of HPC discretion to put him forward for nomination, which they did not.
58. Furthermore, under section 3 of the INP: “Decision Making Authority,” it states that one of the responsibilities of the HPC is “the use of discretion, if applicable, in accordance with these BCS NBP INP.”
59. It is clear to me that to be nominated as B Standard nominee, an athlete still must be put forward at the discretion of the HPC.
60. The HPC did not apply its discretion in favor of the Claimant for selection via the B Standard.
61. It is notable that this discretion does not appear for A Standard nominee(s) who are able to achieve a nomination without being subject to the discretion of the HPC.
62. This distinction provides a non-discretionary pathway to selection padded by competition results (A Standard) and a discretionary pathway (B Standard) for NextGen athletes.
63. This distinction aligns logically with the two primary objectives of the INP:
 - a. Primary Objective: To nominate the maximum number of National Bobsleigh Program (NBP) athletes with medal potential to the Canadian Olympic Team.
 - b. Secondary Objective: To nominate designated NextGen athletes to provide them with major games experience, supporting the BCS 2030 High Performance Plan.
64. Furthermore, the INP contemplates that eligible NextGen athletes may not receive a nomination under the B Standard as the Internal Nomination Procedures (INP) explicitly state that a NextGen athlete who does not qualify through the B Standard may still be considered for nomination through the C Standard.
65. I accept this as evidence as a B Standard nomination requires the agreement of the HPC before nominating to team selection. It is not automatic due to results of competition or related sport metrics.
66. Having concluded that there was no correctable issue with the INP document itself, I turned my attention to whether the discretion of the HPC was incorrectly withheld.
67. The Respondent gave the following rationale in its submissions why the Claimant did not receive the discretionary endorsement of the HPC (in the B Standard):
 - a. Failure to Meet Ranking Benchmarks: According to the B Standard, achieving a combined rank of top twenty or better is a key performance indicator for

consideration. The Claimant concluded the qualification period ranked 34th. The nominated B Standard pilot, Jay Dearborn, attained a ranking of 16th.

- b. Performance Regression - A core objective of the B Standard is to nominate athletes demonstrating progression toward medal potential in 2030. Claimant's IBSF combined rank dropped from 30th in the 2024/25 season to 34th in the 2025/26 season. Jay Dearborn showed significant progression, moving from 27th to 16th in the same period.
 - c. Coach evaluations and the High-Performance Committee (HPC) noted that Claimant's driving skills were not yet at a "senior pilot" level:
 - d. His technical and tactical execution were described as "inconsistent," which limited his race stability.
 - e. Evaluations stated the Claimant "struggles to learn new concepts that are foreign to him" and requires a high volume of runs to understand new tracks, which was evident in his performance at Winterberg.
 - f. Lack of Olympic Track Experience -The HPC prioritized "Olympic readiness" for the 2026 Games.
 - g. Claimant did not compete in the November 2025 Olympic Test Event and had no driving experience on the Milano Cortina track.
 - h. Crashes: His record included multiple crashes in both training and competition (notably in Whistler), which furthered concerns about his technical stability for an Olympic environment.
 - i. BCS argues that while the Claimant is physically elite (with the highest physical testing score in the pool), his driving results and technical regression meant he did not satisfy the benchmarks for a B Standard nomination by the HPC.
 - j. The organization concluded that nominating him would not align with the primary objective of fielding the most competitive medal-potential sleds.
68. While the Claimant may not agree with some of these opinions, considered as part of the HPC decision making process, I cannot conclude that any of these considerations were unreasonable or tainted by bias.
69. They all are data points that are relevant to his performance potential and were considered by the HPC, which was comprised of technical experts best positioned to evaluate such.
70. The explanation offered by the Respondent aligns with the objectives of the INP.

71. Frankly, BCS has demonstrated that its discretionary decision with regards to the B Standard was made in good faith and for a proper purpose as required in *Pyke v. Taekwondo Canada*, SDRCC 16-0296.
72. As a result, I disagree with the Claimant that he ought to have been nominated under the B Standard.

The C Standard

73. Claimant was not nominated under the C Standard (Priority 3) because BCS determined that Taylor Austin (selected pilot) demonstrated superior international performance and driving expertise, which better aligned with the program's primary objective of fielding medal-potential sleds.
74. The Respondent argues that this decision was the result of a comparative assessment between the two pilots after the B Standard (Priority 2) quota spot had been filled.
75. The specific reasons for Austin's selection over the Claimant under the C Standard include:
 - a. Superior International Performance: the High-Performance Committee (HPC) prioritized actual race results over physical testing metrics for the final Olympic spot.
 - b. Partial A Standard: Austin achieved a sixth-place finish at the final World Cup in Altenberg, which was recognized as a "partial A Standard" achievement. The Claimant did not achieve any such benchmarks during the qualification period.
 - c. World Championships: Austin finished in the top eight at the 2025 World Championships, whereas the Claimant did not.
 - d. International Ranking: Austin ended the season with a significantly higher IBSF combined rank of 19th, compared to the Claimant's rank of 34th.
 - e. Driving Experience and Technical Stability: Technical evaluations by the coaching staff favored Austin's experience and track knowledge over the Claimant's physical strength
 - f. Pilot Longevity: Austin was in his 12th year as a pilot, while the Claimant was still characterized as being at a "developmental level" of driving.
 - g. Track Familiarity: Austin demonstrated competitiveness on the 2026 Olympic track, finishing 11th at the November 2025 Test Event. The Claimant did not compete in the test event and has zero driving experience on the Milano Cortina course.
 - h. Execution Stability: Coaching reports noted that Claimant struggled with "technical inconsistency" and had difficulty learning new tracks quickly. In contrast, Austin

was noted for his ability to "drive up" through the field even when starting from a poor push position.

- i. Physical vs. Technical Trade-off: BCS acknowledged that the Claimant was the "physically stronger" athlete, holding a higher Physical Performance Score (436 vs. 349) and meeting the NBP Push Standard that Austin failed to meet (5.14s vs. 5.42s).
- j. The HPC exercised its discretion, reserved under the Internal Nomination Procedures (INP), to conclude that Austin's superior driving ability and international results overcame his lower physical performance.
- k. The HPC determined that Austin could achieve high-level results when paired with a strong crew, whereas the Claimant's technical inconsistencies limited his current nomination viability for the 2026 Games.

76. Conversely, the Claimant argues that he should be the C Standard Nominee for selection based on the following:

“Mandatory” Push Standard Violation

- 77. The C Standard nominated athlete, Taylor Austin, failed the NBP Push Standard.
- 78. The Claimant argues The Internal Nomination Procedures (INP) required pilots to record a push time of 5.20 seconds; Austin recorded a 5.42-second push, while Claimant successfully met the standard with a 5.14-second push.
- 79. The Claimant asserts that by nominating an athlete who failed a “mandatory” physical requirement, the High-Performance Committee (HPC) acted arbitrarily and ignored its own rules.
- 80. The Respondent takes the position that the INP states that the selection order for the C Standard is determined at the "sole discretion of the HPC."
- 81. BCS argues this allows them to weigh Austin's international success (a sixth-place World Cup finish) more heavily than his physical testing failure.
- 82. The Respondent suggests that while the push time is a "benchmark," it is one piece of a broader Gold Medal Profile (GMP) assessment. They argue that Austin's ability to "drive up" through a field compensates for his slower start.
- 83. I agree with the Respondent on this point – the INP does reserve HPC discretion how much to weigh this (and the relative importance of all metrics) when nominating through the C Standard.
- 84. As mentioned previously, unlike the A Standard, the B and C standards involve a discretionary approval by the HPC before proceeding to a team nomination.

85. The evidence before me does not allow me to conclude that analysis by the HPC was unreasonable or contrary to the INP.

Superior Physical and Developmental Metrics

86. The Claimant asserts that his scores vis-à-vis his Physical Performance Score indicate greater athletic potential than Austin.

87. He scored 436, the highest in the Canadian pilot pool; Austin scored 349.

88. However, the Gold Medal Profile is a broad assessment tool which includes the Physical Performance Score. It is a multi-factor assessment that evaluates a range of athlete competencies rather than relying on a single data point.

89. The Physical Performance Score is not determinative of a nomination on its own.

90. While the Claimant asserts NBP Push Standard is a gatekeeping standard, the INP documentation lists it as a “Performance Outcome to be taken into Consideration” for the B Standard.

91. In reviewing the INP document, I did not find the NBP Push Standard as being labelled “mandatory.”

92. Under the C Standard in the INP, the NBP Push Standard is listed under the heading “Performance Results to be *considered* for nomination under the C Standard.” [emphasis added].

93. Therefore, meeting or exceeding the NBP Push Standard is not absolutely required for nomination, but doing so may strengthen an athlete’s case for discretionary nomination by the HPC.

94. The Claimant, as a younger athlete, claims his physical abilities offer more future potential for the 2030 Games compared to the veteran Austin.

95. The decision not to nominate Claimant through the B Standard stands. Although his logic for long-term potential is sound, HPC prioritizes competitiveness for the 2026 Games.

96. To this end, BCS chose Austin under the C Standard due, in part, to his higher world ranking (19th vs. Claimant's 34th).

Equipment Issues

97. The Claimant contends this ranking comparison is unfair, citing equipment issues that affected his results and suggesting his driving skill plus push scores made him a better candidate.

98. BCS responds that equipment problems are inherent and do not invalidate qualification results.
99. The Respondent notes all pilots had similar equipment and that seasonal rankings are the official measure for Olympic eligibility.
100. BCS argues that adjusting the Claimant's rankings for hypothetical scenarios would be procedurally unfair, as all performance data is recorded objectively.
101. BCS emphasizes that the HPC is tasked with selecting athletes based on demonstrated performance rather than potential performance.
102. The actions of the HPC have been consistent with this purpose.
103. According to the Internal Nomination Procedures (INP), the HPC has exclusive authority to evaluate performance results.
104. The Respondent maintains that the committee exercised this authority correctly by giving precedence to Taylor Austin's 6th-place finish at the World Cup and higher world ranking (19th), considering these achievements more indicative of Olympic "Medal potential" than the Claimant's physical test scores.
105. BCS cites Coach Chris Spring's technical reports noting the Claimant's inconsistent driving and challenges with new tracks as key reasons for non-nomination, unrelated to sled conditions.
106. The Respondent states that established protocols existed for raising equipment concerns if safety or standards were at risk.
107. BCS argues that mentioning equipment issues post-nomination is strategic and therefore not a timely grievance.
108. The Claimant completed all qualification events and accepted results without protest at the time.
109. I agree with the Respondent's position.
110. Even if the Claimant realized disadvantages late in the process, it would be unfair to require BCS to retroactively evaluate each individual grievance now.
111. Such action would involve undue interference and speculation regarding technical aspects and team selection outcomes.
112. Precedents show arbitrators set a high bar before altering team selections (*Palmer v. Athletics Canada*, *Bastille v. Speed Skating Canada*, *Forrester v. Athletics Canada*).
113. In this instant case, this bar was not met.

Decision

114. The INP was properly established and agreed to by the Claimant.
115. Interfering here would mean disregarding the relevant experts and inviting speculation about future results and athlete justifications by this Arbitrator.
116. In the absence of compelling evidence of misconduct of the HPC, I cannot alter the Team selection decision.

Order

117. The Claimant's appeal is dismissed.

ALL BY ORDER OF THIS ARBITRATION TRIBUNAL on this 6th DAY of FEBRUARY
2026 at HALIFAX, NS

David Merrigan, C. Arb.

Arbitrator