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

Citation: McEwen v. Alpine Canada Alpin, 2026 CASDRC 44
File No: SDRCC 26-0819
(Ordinary Tribunal)
Date: 2026-09-08

BETWEEN:

ABBY MCEWEN

(CLAIMANT)

AND

ALPINE CANADA ALPIN
("ACA")

(RESPONDENT)

DECISION

Appearances:

On behalf of the Claimant:	Maria Naimark, Counsel
On behalf of the Respondent:	Adam Klevinas, Counsel Cristy Cooper, Counsel

Before:

Carol Roberts, Arbitrator

1. On July 6, 2026, I was selected under Subsection 5.3 (b) of the 2025 *Canadian Sport Dispute Resolution Code* (the "*Code*") to hear Abby McEwen's (the "Athlete") appeal of the decision of Alpine Canada Alpin ("ACA") not to nominate her to the 2026-2027 Canadian Ski Cross Team ("CSCT") (the "Decision").

2. The parties agreed to have this matter decided based on written submissions, with an opportunity for the Athlete to make oral submissions on her own behalf. Submissions were filed July 31, 2026 and August 14, 2026, with affidavits from the Athlete, and from Matt Hallat, the Vice President, High performance and National Teams Programs at Alpine Canada. I conducted a virtual oral hearing to hear from the Athlete on August 17, 2026. ACA filed reply submissions on August 21, 2026.

3. On August 28, 2026, I issued my decision to deny the Athlete's appeal, with reasons to follow. These are my reasons.

OVERVIEW

4. ACA is the national governing body for alpine, para-alpine and ski cross racing in Canada and is responsible for selecting athletes to the CSCT.

5. The Athlete is a 29-year-old elite Ski Cross athlete who has represented Canada on the CSCT for eight consecutive seasons. In December 2025, the Athlete sustained serious injuries during a World Cup race which ended her 2025/26 competitive season. On December 22, 2025, ACA's international federation, the International Ski and Snowboard Federation ("FIS") confirmed her official injury status. The Athlete's injuries occurred on the first training day of the first World Cup of the season, which resulted in her being unable to compete in any World Cup events.

6. The Athlete says she has made a full recovery, been medically cleared and passed every physical benchmark set by her medical team and ACA's support staff. She believes she has made significant physical and mental gains in the past two years and that she would be an asset to the CSCT.

7. On May 22, 2026, ACA notified the Athlete that she had not been nominated to the Team. On June 16, 2026, following the Athlete's request for arbitration challenging that decision, the parties entered into a without prejudice agreement under which ACA agreed to reconsider the Athlete's nomination through a newly constituted independent Reconsideration Panel. On June 26, 2026, the Reconsideration Panel confirmed the original decision (the "Decision").

8. The Athlete contends that the Decision was not made in accordance with the Nomination Guidelines.

9. ACA contends that the Decision was made in accordance with the published criteria, that it was both reasonable and fair, and that that it aligned with both the performance standards and the stated objectives of the program.

10. I thank counsel for their thorough and helpful submissions. I have attempted to summarize the essence of those submissions without doing injustice to the parties' positions.

BACKGROUND

11. Following the Athlete's appeal, ACA agreed that an independent selection panel would reconsider the original decision, and would "apply the Nomination Guidelines accurately and in accordance with procedural fairness (Clause 1.2) including in particular:

    (a) The mandatory injury discretion provision under Clause 5.5.4;

    (b) The injury-related Coaches' Discretion factors under Clause 5.5.3; and

    (c) All other applicable provisions, applied with reasons where relevant."

12. The Reconsideration Panel met on June 24, 2026 and made the Decision which reads, in part, as follows:

    The Reconsideration Panel first took the following considerations into account when making nomination decisions:

    In addition to meeting criteria, the Chair clarified further that when nominating athletes to the Ski Cross Team, the following was considered:

    - *Maximum allowable team size (A&B criteria) is 12 athletes, due to World Cup quota spots.*
    - *The Olympic quota limits Ski Cross to a maximum of 4 athletes per gender within the Freestyle allocation, and could potentially be less depending on ranking within overall Freestyle Olympic quota*
    - *As outlined in the selection criteria, final team size must align with:*

      Program performance objectives

      The organization's financial capacity
    - *Based on the financial capacity and overall program budget for the 2026-27 season, which is ~$500K less than previous year due to one time Olympic funding and overspending vs budget that is not repeated this year and OTP reduced funding, ACA has the capacity to properly and safely support a maximum of 9 athletes (~3 coaches and 3 technicians)[for] the 2026-27 season*
    - *Accordingly, the team size has been set at 9 athletes (A&B criteria) for 2026-27*

- *This reflects a balance between*

  Available funding and resource allocation

  Supporting athlete development pathways

  Athlete safety and risk management

  Ensuring competitive representation at World Cups, World Championships, and Olympic Winter Games (OWG)

  When considering whether Ms. McEwen should be nominated to the Team, the Reconsideration Panel considered, pursuant to Section 5.5.3 of the ACA Nomination Guidelines, that after nine years on the World Cup team, she has achieved one podium in a weak field two years ago at the 2024 World Cup in Craigleith, ON (Section 5.5.4, Section 5.5.3(6))

  Further, Ms. McEwen had often been injured (Section 5.5.3 (11)) and the Reconsideration Panel was concerned for her health and safety (Section 5.5.3 (11)) as well as Ms. McEwen's ability to reach the fitness standards required of international-level athletes to train and compete at the World Cup level (Section 5.5.3 (9))

  Importantly, the Reconsideration Panel considered that the Team size had to be set at nine athletes for the A and B World Cup team (three coaches, three ski technicians), plus all athlete travel and support. The Panel considered that it was not possible to safely add another athlete within this structure, as the objective is to support athletes with podium potential, not to maximize team size.

  …

  To be clear, while Ms. McKewen (sic) was eligible to be considered for nomination to the Team under Section 5.5.4 of the Nomination Guidelines, the Reconsideration Panel was of the view that she should not be nominated on the basis of team size and financial considerations, as well as her lack of progression, as set out above.

  For these reasons, the Reconsideration Panel confirmed ACA's initial decision not to nominate Ms. McKewan (sic) to the Team.

The Code

13. ACA has the initial burden of establishing, on a balance of probabilities, that the selection criteria were appropriately established, and that the selection decision was made in accordance with the criteria. If that burden is satisfied, the onus then shifts to the Athlete to demonstrate, on a balance of probabilities, that he should have been nominated in accordance with the criteria. (*Code* Section 6.11)

14. The Panel has the power to review the facts and apply the law and may substitute its decision for the decision that gave rise to the dispute. The Panel has the power to conduct a hearing *de novo.* Further, in a team selection dispute, no deference need be given by the Panel to any discretion exercised by the Person whose decision is being appealed, unless the Party seeing such deference can demonstrate that Person's relevant expertise. (*Code* Section 6.12)

The Selection Criteria

15. ACA published the *2026-2027 Nomination Guidelines – Canadian Ski Cross Team* (the "Criteria") on November 1, 2025. The Athlete does not dispute that the Criteria were appropriately established.

16. The relevant sections of the Criteria are as follows:

1.2 The Nomination Guidelines shall be interpreted and applied in accordance with the principles of procedural fairness and natural justice.

…

2.1 The objective of the Guidelines is to nominate athletes that are most capable of achieving success at the highest level of international competition on the defined criteria.

2.2 The primary objective of the A & B team is to perform/succeed at the World Cup, World Championships & Olympic Winter Games level. For Alpine Canada Alpin, athletes competing in the Olympic Winter Games represents (sic) *the most important competition held every four (4) years. Results from this competition have an impact on funding received from various governmental and non-governmental sources for direct athlete funding and financial support for High Performance Programs of ACA - Ski Cross.*

…

3. Definitions

"Coaches Discretion" – the exercise of discretion by the CSCT Leadership to nominate or not nominate, an Athlete to the CSCT based on various considerations, including without limitation, an evaluation of technical skiing abilities, previous motivation and performance, attitude and commitment, meeting expectations of the athlete agreement, outstanding results, event quality where top results were achieved, achieved results at appropriate level of competition, general level of physical fitness, injury history and athletic potential. Any registered FIS Athlete in the Canadian ski racing system may be nominated or not nominated to the CSCT under "Coaches Discretion" based upon all or some of the above-mentioned criteria.

…

Quota

Notwithstanding anything contained in these Nomination Guidelines, ACA has the sole discretion and the exclusive right to limit the number of Athletes nominated to CSCT due to operating capacity of the CSCT A B & NEXT GEN TRAINING Group and/or limited financial resources, regardless of nomination criteria achieved.

5. NOMINATION CRITERIA FOR A, B TEAMS & NEXT GEN TRAINING Group

Athletes shall be considered for nomination on the following basis:

…

[Sections [5.1] – 5.4 set out the performance criteria which athletes will be considered for nomination and how achieving specified results at named events will qualify athletes for nominations within Tier 1, Tier 2 or Tier 3 of the ranking system, and then within Team A, Team B or the Next Gen Training Groups]

5.5. Nomination with Coaches Discretion

5.5.1 In the event an Athlete does not meet the criteria thresholds set out above, the Athlete may still be considered for nomination to the CSCT "A", "B", and Next Gen Teams based on "Coaches Discretion." The CSCT Leadership have the sole discretion to recommend for nomination, any Athlete to the CSCT "A", "B", and Next Gen teams under Coaches Discretion, regardless of age.

…

5.5.3 Coaches' discretion nominations will be based on various considerations including, but not limited to:

…

(12) Injury or illness has prevented the athlete from achieving the criteria mentioned in these nomination guidelines:

The athlete achieved results deemed by CSCT Leadership to be comparable to nomination criteria prior to their injury status.

The athlete has committed to a return to snow program, and it (sic) expected to return to full capabilities and either meet or exceed other nominated athletes.

The athlete has a doctor's certificate attesting full recovery is expected and the indication of the estimated recovery period.

5.5.4 Nominations based on injury status

If an athlete is unable to meet criteria under A Team or B Team Tiers, they may be considered for nomination only if they are unable to compete in greater than 50% of successfully executed World Cup competitions. In the case an athlete met A team criteria in the prior season, they will be considered as an A team member under injury discretion for one season. In the case an athlete met B team criteria in the prior season, they will be considered as a B team member under injury discretion for one season. Any athlete that is unable to meet criteria for two consecutive seasons in a row will ONLY be considered at the bottom of B Team Tier rankings if total team size fits within the World Cup quota allocation. [reproduced as written]

What is the correct standard of review?

17. The Athlete submits that the proper standard of review is that of correctness, while ACA submits that it is reasonableness.

18. The Athlete says that the reasonableness framework established by *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 ("Vavilov") applies to "the merits of an administrative decision" but not to "a review related to a breach of natural justice and/or the duty of procedural fairness" (Vavilov at para 23).

19. The Athlete argues that deference to a decision-maker's discretionary judgement presupposes that the decision-maker exercised their discretion under the correct provision, and that deference cannot rescue a decision that misapprehends or ignores the governing mandatory rule. She says that even a reasonableness review is a "robust form of review" and because both the original decision and the answer failed to engage Clause 5.5.4 at all and the Reconsideration Decision engaged it only to "misconstrue its mandatory effect," there is no reasoned or transparent process to which deference can attach.

20. The Athlete says that ACA failed to follow its own Criteria on five separate grounds:

    1. That it failed to give effect to the mandatory injury discretion provision: the Original Decision ignored the provision entirely, and the Reconsideration Decision, while acknowledging the Athlete's eligibility, misinterpreted Clause 5.5.4 as conferring mere eligibility for discretionary consideration rather than protected A Team status for one season, despite the Athlete meeting all necessary preconditions;

    2. That it failed to properly consider the mandatory injury-related factors in exercising Coaches Discretion;

3. That it failed to apply the nomination Guidelines in accordance with the principles of procedural fairness and natural justice;
4. That it failed to provide the Athlete with a Season End Evaluation Form and the opportunity to submit written comments; and
5. That it applied the Nomination Guidelines in an arbitrary and inconsistent manner, including by reducing the team size below the maximum contemplated by the Guidelines as part of the process of excluding her, and by affording injury accommodation under Clause 5.5.4 to comparably situated injured A Team athletes while denying the Athlete the same protection.

21. ACA contends that the Athlete was assessed in accordance with the Criteria. It says that the Decision acknowledged the Athlete was eligible for consideration for nomination, and that because the Athlete failed to satisfy any of the objective selection criteria identified in sections 5.1-5.4, she was considered for a discretionary nomination in accordance with Section 5.5 of the Criteria.

22. ACA says that CSCT Leadership conducted Coaches Nomination meetings over two days during which the possibility of the Athlete's discretionary nomination was expressly considered. It says that the Leadership was of the view that the Athlete was not "showing appropriate forward progression to justify a re-nomination under section 5.5.3 of the Criteria." ACA contends that all relevant provisions of Clause 5.5.3 were considered, including the Athlete's season-ending injury.

23. ACA submits that consideration for nomination is not the same as a default or automatic nomination, and that the Reconsideration Decision, based on applicable considerations, is entitled to deference.

Did ACA give effect to the mandatory injury discretion provision?

24. The primary issue in dispute is whether ACA properly construed Clause 5.5.4 of the Criteria.

25. The Athlete contends that Clause 5.5.4 guarantees her protected A Team status rather than merely guaranteeing her further assessment against criteria her injury prevented her from meeting.

26. ACA contends that Clause 5.5.4 is unambiguous; that it provides that an athlete who meets basic thresholds will be <u>considered</u> as an A Team member under injury discretion for one season and that there is no protected status. It argues that there is no language which indicates that an athlete being considered for

nomination under this Clause is exempt from the additional considerations set out in Section 5.5.3.

27. I agree with the Athlete's contention that the proper construction of written criteria engage legal questions rather than specialized athletic judgement and is not entitled to deference.

28. That the Criteria lack drafting clarity is undisputed. There are many mis-numbered paragraphs, grammatical errors and internal inconsistencies. Neither statutory interpretation principles (where a decision maker attempts to discern legislative intent) nor contract interpretation principles (which decision makers use to determine the intention of two or more parties to an agreement) are entirely appropriate guides to the interpretation of the Criteria.

29. The Ontario *Arbitration Act* (S.O. 1991, c. 17) which governs the SDRCC procedures, provides that parties shall be treated equally and fairly (s. 19(1)), and shall decide a dispute in accordance with law, including equity (s. 31).

30. I conclude, based on a consideration of the entire document rather than any individual clause, that ACA properly interpreted the Criteria.

31. Clause 5.5.4 provides that where an athlete met A Team criteria in the prior season (which the Athlete satisfied) and was unable to compete in greater than 50% of World Cup competitions due to injury (which the Athlete satisfied), she will be considered as an A Team member under injury discretion for one season.

32. The essence of the dispute is whether the Athlete is entitled to be considered for nomination as an A Team member, as argued by ACA, or whether she is entitled to protected status as an A Team member – i.e. to be considered as an A Team member simply because of her injury - without having to satisfy any other nomination criteria, as she contends.

33. In my view, the words "considered as an A Team member" in subclause 5.5.4 do not operate to guarantee the Athlete a protected status.

34. Clause 5 specifies that "Athletes shall be <u>considered for</u> nomination on the following basis." (emphasis in original) Clause 13 (i) also specifies that all CSCT Athletes <u>shall be considered</u> for nomination. (my emphasis)

35. The opening sentence of 5.5.4 provides that "if an athlete is unable to meet A or B Team criteria, they may be <u>considered for nomination</u> only if they are unable to compete…" A complete reading of the second sentence is that if an athlete met A team criteria in the prior season, they will be "<u>considered as an A Team member under injury discretion</u>." If the Criteria were to be read to grant the

Athlete a protected status, there would be no need to add words granting ACA the power to exercise discretion.

36. Additionally, Clause 5.5.3 provides that Coaches' discretion nominations will be based on various considerations, including (12) that… "injury or illness has prevented the athlete from achieving the criteria mentioned in these nomination guidelines." This clause reflects the Athlete's circumstances.

37. While there is some inconsistency in the language used, that is, "the Athlete will be considered as an A team member" or, will be considered for nomination as an A team member," I find that to read the provision as guaranteeing the Athlete a place on the CSCT team solely by virtue of her being an A Team member the previous year would not only lead to an unfair result, but there would be no need to include Clause 5.5.3 (12). Furthermore, such an interpretation would be inconsistent with the overall objectives identified in Clause 2.

38. Clause 5.5.4 cannot be read as "considered to be" an A Team member as suggested by the Athlete. While there must be some provision acknowledging an athlete's failure to achieve performance criteria due to injuries, that injury status should not shield the athlete from an evaluation of their potential based on non-performance criteria as well as historical results.

39. I conclude that the Athlete, after having been considered an A Team member, was still subject not only to the injury discretion identified within Clause 5.5.4, but the criteria identified in subclause 5.5; that is, Nomination with Coaches Discretion.

40. While not expressly in issue, I am not persuaded that ACA failed to properly apply the Clause 5.5 criteria or exercised their discretion in an improper manner.

Did ACA apply the Nomination Guidelines in an arbitrary and inconsistent manner, including by reducing the team size below the maximum contemplated by the Guidelines as part of the process of excluding the Athlete, and by affording injury accommodation under Clause 5.5.4 to comparably situated injured A Team athletes while denying the Athlete the same protection?

41. Although the Guidelines establish a maximum team size (12), they also enable ACA to limit the team size "regardless of nomination criteria achieved." While the Athlete contends that Section 4 of the Nomination Guidelines permits ACA to assign team fees to offset program costs, a single athlete can, and has been, accommodated within the existing structure.

42. Subsection 5.5.3 permits ACA to consider "ideal functional size of training groups" when making nomination decisions. The Reconsideration Panel decided that ACA "had the capacity to properly and safely support a maximum of 9

athletes" which reflected "a balance between: available funding and resource allocation; supporting athlete development pathways; Athlete safety and risk management; and Ensuring competitive representation at World Cups, World Championships and Olympic Winter Games." The Reconsideration Panel noted that it was "not possible to safely add another athlete within this structure."

43. It is not an arbitrator's function to second guess ACA's determination of an "ideal functional size" of a training group.

44. There is no evidence that the Reconsideration Panel considered irrelevant factors in determining the ideal size, nor is there any evidence that it limited the ideal functional size for the sole purpose of excluding the Athlete. Whether or not an athlete has been accommodated in the past is not a basis for concluding that ACA's decision is unreasonable.

45. Similarly, it is not an arbitrator's function to question a sport organization's funding allocation, absent any evidence of bad faith or malfeasance such as fraud or corruption.

46. As Arbitrator Décary noted in *Mehmedovic v. Judo Canada* (SDRCC 12-0191/92), decisions of sport organizations are subject to two types of deference depending on whether the challenge is made against a selection decision or selection policy:

> … when it comes to assessing policy decisions, arbitrators can only intervene in exceptional circumstances, such as where a policy would have been adopted in bad faith or without jurisdiction, would be contrary to law (a discriminatory policy for example), would have been adopted through a biased process, or at the limit, where it is so vague or discretionary or arbitrary as to be inapplicable with any kind of certainty. (para. 30)
>
> …
>
> Policy-makers are recognized a quasi-absolute discretion when it comes to making priorities and choices of methods and criteria and arbitrators are expected to stay away from any second-guessing except in such exceptional circumstances as I have described above (para. 33)

47. I am also not persuaded that ACA afforded injury accommodation under Clause 5.5.4 to two "comparably situated injured A Team athletes" while denying the Athlete the same protection. All three athletes were identified as falling within the injury provisions for consideration. After considering discretionary factors, the ACA determined that the two "comparably situated injured A Team athletes" had better performances than the Athlete. In particular, one of those athletes has achieved 11 World Cup podium finishes in the 2024-2025 season while the other

also had 11 World Cup podium finishes in her career. There is no evidence that the Athlete was denied injury accommodation.

48. I also find no basis for the Athlete's argument that she alone was "singled out for a re-examination." The "re-examination" was a consequence of her appeal and a without prejudice agreement to do so. As the other two athletes did not file appeals, there was no need to reconsider their nominations.

Did ACA fail to properly consider the mandatory injury-related factors in exercising Coaches Discretion?

49. Clause 5.5.3 identifies various considerations for the Coaches' discretion nominations, including previous performances and achieved results. Included in that list of factors includes a consideration of "whether injury or illness has prevented the athlete from achieving the criteria mentioned in these nomination guidelines," "whether the athlete achieved results deemed by CSCT Leadership to be comparable to nomination criteria prior to their injury status" and "whether an athlete is expected to return to full capabilities and either meet or exceed other nominated athletes." (while identified as 5.5.3 (12), this appears to be one of the drafting errors).

50. The Athlete says that while ACA considered her injury-related circumstances, her qualifying results were compared to two of the CSCT's strongest performers rather than the objective A Team thresholds set out in Clause 5.1 and her own pre-injury results. She also contends that ACA's own records do not support its fitness-based rationale for exclusion.

51. Given that the Athlete did not have "objective A Team thresholds" in the previous season, I find no error in ACA's assessment of the performances of other nominated athletes. The two athletes nominated under Coaches' Discretion identified by the Athlete as the 'strongest performers' have similar length careers to the Athlete, and have each achieved multiple World Cup podium performances over the past several seasons. The Athlete has 59 World Cup starts and achieved one bronze medal finish in nine years. I find no error in the application of Clause 5.5.3 (12) considerations.

52. While ACA acknowledged the Athlete's recovery efforts, it decided that her performance history did not support a nomination and her progress was unlikely to improve. While "lack of progression" is not specifically identified in Clause 5.5.3, the factors are not limited to the list ("including but not limited to").

53. The Tribunal will not interfere with the exercise of discretion unless it can be shown that the decision was made in bad faith, that there was a mistake in construing the limits of the discretionary authority, that there was a procedural

irregularity, or that the decision was based on factors irrelevant or extraneous to the purposes of the Criteria. I find that the Athlete's progress, or lack of it, was a relevant factor to consider.

54. I find no conflict between Clause 5.5.4 wording that the athlete was entitled to an A team consideration because of her injury and the consideration of the impact of the injury on her forward/future progress.

Did ACA fail to apply the nomination Guidelines in accordance with the principles of procedural fairness and natural justice?

55. The Athlete argues that although Clause 1.2 requires the Criteria to be applied with procedural fairness, the Decision, while providing some reasons, did not cure the denial of her opportunity to be heard in the original decision. The Athlete argues that she was only told she had not met "minimum performance criteria" which does not constitute adequate reasons for the Decision.

56. In my view, the June 24, 2026 Reconsideration Decision adequately considers the Athlete's circumstances and the Criteria and conveys the reasoning behind the Decision. The Decision was issued after the Athlete identified her concerns with the original decision and expressed her views on her fitness and performance. I conclude that the principles of natural justice were met.

Did ACA fail to provide the Athlete with a Season End Evaluation Form and the opportunity to submit written comments?

57. Clause 3.11 of the Nomination Guidelines require the CSCT head coaches prepare a Season End Evaluation Form for the athletes. The Season End Evaluation form is defined as "*the written form prepared and submitted by the CSCT head coaches at the conclusion of the previous competitive season. The Season End Evaluation Form shall set out the technical evaluation, performance evaluation and achievement goals of each athlete, which shall be a consideration by the CSCT Leadership and the TSAC* [Team Selection Advisory Committee] *in making their recommendation and nomination selections."*

58. Clause 13 (iii) requires that athletes considered for Coaches' Discretion "shall be notified and have a reasonable opportunity to review and provide written comments appended to the Season End Evaluation form prior to the Coaches Nomination Meeting." The Athlete says she was never provided with the Evaluation form or any opportunity to submit written comments. She contends that this omission deprived her of her only guaranteed opportunity to advocate for her nomination and to put her medical clearance before the decision maker.

59. ACA did not dispute that it failed to provide the Athlete with a Season End Evaluation form. According to Mr. Hallat, ACA intended to remove the

evaluation form from all nomination criteria, and while it did so for the Alpine and Para-Alpine teams, it was not removed from the Ski Cross nomination criteria due to an oversight.

60. ACA says that no Ski Cross athlete received a copy of the Evaluation form, and that no athlete requested an opportunity to comment on their prospective nomination. ACA says that the Athlete, along with all other CSCT athletes, was provided with an opportunity to respond to a questionnaire asking for comments on a number of issues including her goals, where the program could improve and whether she felt she received adequate support from ACA staff. The Athlete provided a response to this questionnaire.

61. ACA contends that its failure to provide the Athlete with a Season End Evaluation form did not change the criteria against which the Athlete was evaluated and says that the Athlete's evidence on any specific points would not have led it to a different decision.

62. I find that the end of season questionnaire does not replace the Season End Evaluation form. The Evaluation form was specific to the individual athlete and was intended to provide a basis for nomination decisions. Clause 13 (ii) and (iii) required CSCT to provide the form to the athletes and consider the responses prior to the Coaches Nomination meeting.

63. I find that this failure was more than a simple procedural irregularity. The Guidelines not only ensured the Athlete a right to be heard prior to making the nomination decision, but they also guaranteed the application of the guidelines in accordance with the principles of natural justice (Clause 1.2). I find that ACA denied the Athlete natural justice in failing to provide her with the opportunity to submit written comments about the Season End Evaluation.

64. However, I find that this denial of natural justice was cured through the reconsideration process. The Athlete's appeal documentation identified her concerns about the fairness of ACA's decision and its evaluation of her performance. Her general position, if not the details, were before the Reconsideration Panel. I conclude that any breaches of natural justice were cured by the Decision.

CONCLUSION

65. I am not persuaded that the ACA failed to properly apply the Criteria in its decision not to nominate the Athlete to the CSCT. The appeal is denied.

DATED: September 8, 2026, Vancouver, British Columbia

_____

Carol Roberts, Arbitrator