



<b>CATEGORY: 1.0 GOVERNANCE &amp; STRATEGIC DIRECTION POLICIES</b>			
<b>SECTION: 1.9 General Policies</b>			
<b>POLICY: 1.9.1 Appeal Policy</b>	<b>APPROVED:</b> June '95	<b>REVISED:</b> Sept '97, June '00, July '01, Nov '03, Nov '15, Jan '16, July '19, May 27, 2021, Dec 03, 2022	<b>PAGES: 10</b>

## Definitions

1. The following terms are defined within this Policy as:
  - a) Affected Party – An Individual or a third Party whose rights may be directly affected by the decision in the Appeal
  - b) “Appeal”- An appeal made against a CPC decision pursuant to this Policy
  - c) “Appellant” – The Party appealing a decision
  - d) “Case Manager” – An individual appointed by the CPC, who need not be a member or affiliated with the CPC, to administer this Policy. The Case Manager shall comply with the position description described in Appendix “A”
  - e) “CPC” – Canadian Paralympic Committee
  - f) “CPC Employee” – An Individual employed by the CPC on a permanent full-time or permanent part-time basis
  - g) “Days” – Any day of the week, including weekends and holidays
  - h) “Exceptional Circumstances” – Reasons beyond the Individual’s control including: a medical reason, family reason or an otherwise exceptional circumstance that prohibited a Party from filing the documents on time or participate in these proceedings
  - i) “Individuals” – All individuals engaged in activities with the CPC including athletes, coaches, team managers, officials, volunteers, suppliers, contractors, parents/guardians, directors, officers, members, member representatives and committee members of the CPC
  - j) “NSO or National Sport Organization”- A national sport organization recognized by the CPC
  - k) “Parties or Party” – The Appellant, Respondent, and any Affected or third Party
  - l) “Respondent” – The Party whose decision is being appealed
  - m) “SDRCC” – The Sport Dispute Resolution Center of Canada

## Purpose

2. The Canadian Paralympic Committee (CPC) is committed to providing a safe, welcoming and inclusive environment for everything within its sphere of influence and when carrying out all its activities. CPC is an athlete-centred organization which has identified the meeting of athlete needs as one of its top priorities. CPC commits to treating all Individuals with respect which is characterized by the values of fairness, integrity, and open communication.



3. The CPC provides Individuals with this Appeal Policy to enable fair, affordable, and expedient Appeals of certain decisions made by the CPC.

### **Scope and Application of this Policy**

4. This Policy applies to external stakeholders such as CPC's members or volunteers, NSOs and their members involved in CPC activities. This Policy **does not apply** to CPC employees, contractors and suppliers unless otherwise determined by the CPC. Any Individual, except any CPC employee, contractor or supplier, who is directly affected by a CPC decision shall have the right to appeal that decision provided there are sufficient grounds for the Appeal under the 'Grounds for Appeal' section of this Policy.
5. The CPC may decide, at its discretion, when an expedited decision is necessary and that a CPC Appeal is not possible, to bypass its internal Appeal process and allow the Appellant to file an arbitration application in accordance with the SDRCC Code of procedure.
6. This Policy **shall apply** to decisions made by the CPC relating to:
  - a) CPC Team Selection or Nomination;
  - b) Conflict of Interest;
  - c) Conduct and Discipline policy or the application or breach of a CPC's Policy;
  - d) Membership.
7. This Policy **shall not apply** to decisions relating to:
  - a) Employment, contractors and suppliers unless otherwise determined by CPC;
  - b) Infractions for doping offenses;
  - c) Classification;
  - d) The rules of sport;
  - e) Eligibility or team selection matters that are within the jurisdiction of entities other than CPC;
  - f) Selection criteria, quotas, policies, and procedures established by entities other than the CPC;
  - g) Substance, content and establishment of CPC team selection criteria;
  - h) Budgeting and budget implementation;
  - i) The CPC's operational structure and committee appointments;
  - j) Decisions or discipline arising within the business, activities, or events organized by entities other than the CPC (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless accepted by the CPC at its sole discretion);
  - k) Decisions or discipline arising within competition.

### **Initiation of the Appeal**

8. Individuals who wish to appeal a decision have fourteen (14) days from the date on which they received notice of the decision, to submit the following information to the CPC in writing:



- a) Notice of the intention to appeal;
  - b) Contact information of the Appellant;
  - c) Name of the Respondent and any Affected Parties (if known);
  - d) Date the Appellant received notice of the decision being appealed;
  - e) A copy of the decision being appealed, or description of decision if a written document is not available;
  - f) Grounds for the Appeal as defined in this Policy;
  - g) Detailed explanation and evidence supporting the Appeals;
  - h) Requested remedy or remedies; and
  - i) Administrative fee of \$250.
9. An appeal brought by an Individual beyond the permitted fourteen (14) day period shall only be considered in Exceptional Circumstances beyond the control of the Individual. A written request stating the Exceptional circumstances and reasons for an extension must be provided to the Case Manager. The decision to allow, or not allow an Appeal outside of the fourteen (14) day period shall be at the sole discretion of the Case Manager and may not be appealed.

### **Grounds for Appeal**

10. An Appeal may only be heard if there are sufficient grounds for the Appeal. Grounds for the Appeal are limited to arguments that the Respondent:
- a) made a decision that it did not have authority or jurisdiction (as set out in the relevant governing documents);
  - b) failed to follow its own procedures (as set out in the relevant governing documents);
  - c) made a decision that 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 or has not considered other views);
  - d) failed to consider relevant information or took into account irrelevant information in making the decision; or
  - e) made a decision that was unreasonable based on the information filed and arguments made before the original decision-maker.

### **Onus and Standard of Review**

11. The Appellant bears the onus to demonstrate that the CPC decision is or was unreasonable, the occurrence of at least one of the grounds set out in Section 10 of this Policy, and that such ground had, or may reasonably have had, a material effect on the decision or decision-maker.

### **Case Manager**

12. Upon receiving the notice of the Appeal, and all other information outlined in Section 8 above, the CPC shall appoint a Case Manager to manage and administer Appeals filed in accordance



with this Policy and such appointment is not appealable. The Case Manager shall not be connected in any way to the issue being appealed, or to any of the Parties involved.

13. The Case Manager has a responsibility to:

- a) Determine if the Appeal falls under the scope of this Policy;
- b) Determine if the Appeal was submitted in a timely manner; and
- c) Decide whether the Appellant has identified any potential grounds for Appeal pursuant to section 10 above.

14. If the Appeal is denied on the basis of improper grounds instead of lack of grounds, not submitted within the stated time, or because it did not fall under the scope of this Policy, the Case Manager shall notify the Parties, in writing, of the reasons for this decision. This decision may not be appealed under the terms of this Policy.

### **Alternative Dispute Resolution**

15. The Case Manager shall enquire if the Parties would be willing to attempt to resolve the dispute by way of mediation. If both Parties consent to mediation, the matter shall then be handled in accordance with the CPC's Alternative Dispute Resolution Policy. The mediation may, upon Parties' consent, suspend the Appeal procedures until the mediation is completed.

16. Should one of the Parties not agree to mediation, or should the matter not be resolved through the Alternative Dispute Resolution Policy, an Appeal hearing shall be conducted in accordance with this Policy.

### **Conduct of the Appeal**

17. If the Case Manager is satisfied that the Appeal should be allowed to proceed, the Case Manager shall appoint an Appeals Panel and three (3) persons to act as members of the Appeals Panel. The Case Manager shall appoint one of those persons to serve as the Chair of the Appeals Panel. Members of the Appeals Panel shall have had no involvement with the alleged infraction, or the decision being appealed, and shall be free from any other bias or conflict of interest.

### **Procedure for Appeal Hearing**

18. The Case Manager, in consultation with the Panel, shall decide the format under which the Appeal shall be heard and shall consider any barriers that exist due to the nature of the Appellant's disability, if any. The following criteria suggest that an oral hearing, and not a mere review of documentary evidence, be held:

- a) complex issues involved;
- b) credibility findings must be made; or
- c) a large amount of documentation is to be considered;



The Case Manager shall notify the Parties of such decision in writing. This decision may not be appealed.

19. If a Party chooses not to participate in the hearing, the hearing shall proceed without the Party's participation.
20. The format of the hearing may involve a hearing by teleconference, a hearing based on a review of documentary evidence, or a combination of these methods. The hearing shall be governed by the procedures that the Appeals Panel deems appropriate in the circumstances, provided that:
  - a) The hearing shall be held within an appropriate timeline determined by the Appeals Panel;
  - b) The Parties shall be given reasonable notice of the day, time and if applicable the means of accessing the hearing;
  - c) Copies of any written documents which the Parties wish to have the Panel consider shall be provided to all Parties in advance of the hearing and the Appeals Panel shall assign:
    - i. a first deadline for the Appellant's documents and submissions; and
    - ii. a second deadline for the Respondent's documents and submissions based on the appropriate timeline determined by the Appeals Panel, allowing for adequate consideration of the documents and submissions in the circumstances;
  - d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense;
  - e) The Panel may request that any other individual participate and give evidence at the hearing;
  - f) The Panel may allow as evidence at the hearing any oral evidence and/or written documentation relevant to the subject matter of the Appeal, but may exclude such evidence that is unduly repetitive and shall place such weight on the evidence as it deems appropriate;
  - g) If a decision in the Appeal may affect another person to the extent that the other person would have recourse to an Appeal in their own right under this Policy, that person shall become an Affected Party to the Appeal in question, shall be invited to make submissions and attend an oral hearing (if held), and shall be bound by its outcome;
  - h) The decision to uphold or reject the Appeal shall be by a majority vote of Appeals Panel members
  - i) A request for accommodations may be filed at any time but no later than fourteen (14) days prior to the holding of an oral hearing. The Parties shall be accommodated by CPC up to undue hardship on CPC.

### **Appeal Decision**

21. The Appeals Panel shall ordinarily issue its decision, in writing and with reasons, within seven (7) days of the hearing's conclusion, unless an earlier decision is required in the sole discretion of the Appeals Panel based on submissions of the Parties. If more than seven (7) days are required for the Appeals Panel's decision, the Appeals Panel shall provide reasons for the delay in the



decision. The Appeals Panel may decide, at its discretion, in light of the urgency of the matter, to issue a short decision with reasons to follow.

22. The Appeals Panel may decide to:

- a) Dismiss the appeal and confirm the decision being appealed;
- b) Allow the appeal and refer the matter back to the initial decision-maker for a new decision;
- c) Allow the appeal and vary the decision.

23. The Appeals Panel's written decision, with reasons, shall be distributed to all Parties, the Case Manager, and the CPC Chief Executive Officer. Distribution to additional persons or organizations shall be pursuant to the Confidentiality section of this Policy.

### **Confidentiality**

24. The Appeals process is confidential and involves only the Parties, the Case Manager and the Panel. Once initiated and until a decision is released, none of the Parties shall disclose confidential information to any person not involved in the proceedings. All Parties, the Case Manager, the CPC, and the Panel shall keep Parties' evidence and submissions confidential at all times unless required by Law and even if the decision is made public.

### **Records and Distribution of Decision**

25. Any decision rendered under this Policy may be disclosed to any third party deemed appropriate by the CPC such as the SDRCC, or any other legal body charged with the responsibility of reviewing such decision. For example, Appeal decisions that are matters of public interest may be publicly available with the names of the individuals redacted. Likewise, names of persons affected may be disclosed to the extent necessary to give effect to any decision imposed.

### **Final and Binding**

26. The decision of the Panel shall be binding on the Parties and on all Individuals associated with the CPC, subject to the right of any Party to seek review of the Appeal panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada.

27. No action or legal proceeding shall be commenced against the CPC or Individuals in respect of a dispute, unless the CPC has refused or failed to provide or abide by the dispute resolution process and/or Appeal process as set out in the CPC's policies, procedures, rules, and regulations.

### **Administrative Fee**

28. If the Appeal is successful, the administrative fee shall be reimbursed to the Appellant.



29. If the Appeal is unsuccessful the administrative fee shall not be reimbursed to the Appellant.



## **APPENDIX "A"**

### **CASE MANAGER POSITION DESCRIPTION**

#### **Purpose**

1. In this Policy, the CPC requires the appointment of a Case Manager. This position description outlines the role, identity, responsibilities and tasks of the Case Manager.

#### **Identity**

2. The Case Manager, appointed by the CPC at their sole discretion, should be experienced with the management of disputes in an unbiased manner. The individual shall not be connected in any way to the issue being disputed.
3. The Case Manager's identity does not need to be approved by any of the Parties involved in the dispute, excluding the CPC.

#### **Discretion – Appeals (Appeals Policy)**

4. When an Appeal is filed, the Case Manager is required to:
  - a) Propose the use of the CPC's Alternative Dispute Resolution Policy;
  - b) Determine if the Appeal falls under the scope of the Appeal Policy;
  - c) Determine if the Appeal was submitted in a timely manner;
  - d) Decide whether there are any grounds for the Appeal;
  - e) Appoint the Appeals Panel, if necessary;
  - f) Coordinate all administrative aspects and set timelines in conjunction with the Appeals Panel;
  - g) Provide administrative assistance and logistical support to the Appeals Panel as required; and
  - h) Provide any other service or support that may be necessary to ensure a fair and timely proceeding.
5. When determining if there are identified grounds for Appeal, the Case Manager is not acting as the Panel and determining the merits of the Appeal, but instead determining whether the Appellant has properly shown that an error, as described in the Appeal Policy, has been alleged. The Case Manager shall carefully consult CPC's policies and procedures, and analyze the process that contributed to the decision, to determine whether there are appropriate grounds.

#### **Discretion – Alternative Dispute Resolution**

6. When the Parties agree to the jurisdiction of the Alternative Dispute Resolution Policy, the Case Manager may be required to:





- a) Appoint the mediator or facilitator;
- b) Coordinate all administrative aspects and set timelines; and
- c) Provide administrative assistance and logistical support to the mediator or facilitator as required.

### **Hearing Format – Discretion**

7. If necessary, the Case Manager, in conjunction with the Appeals Panel, as appropriate, is required to exercise their discretion to determine the format of the hearing. Hearings typically take the following forms:
  - a) Conference call;
  - b) In-person hearing;
  - c) Written submissions; or
  - d) A combination of s. 7(a), 7(b) and 7(c).
  
8. In determining the format of the hearing, the Case Manager should consider:
  - a) The animosity between the Parties;
  - b) The time commitment of the Panel;
  - c) The timelines for a decision;
  - d) The language barriers between the Parties;
  - e) The gravity of the complaint/Appeal;
  - f) The complexity of the issues involved;
  - g) The amount of documentary evidence;
  - h) Whether the Parties are represented by legal counsel;
  - i) The existence of written arguments provided in advance;
  - j) Whether credibility findings must be made; or
  - k) Accommodations required due to a Party's disability.

### **Panel Appointment**

9. The Case Manager is required to appoint members of the Appeals Panel. The panel members are more important to the resolution of the dispute than the Case Manager and should have the following characteristics:
  - a) Experience in dispute resolution;
  - b) Experience with sport disputes;
  - c) No connection to either Party;
  - d) Decisiveness;
  - e) Fluent in the language in which the appeal is being argued; and
  - f) Available to make a decision on the Appeal within the timeframes set under this Policy.



10. The Case Manager and each member of an Appeals Panel shall receive an honorarium.