



# APPEAL POLICY

**Updated**

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## 1. Purpose

- 1.1. SSC is committed to providing an environment in which all Participants involved with the organization are treated with respect and fairness. SSC provides this *Appeal Policy* to enable fair, affordable, and expedient appeals of certain Decisions made by SSC.

## 2. Application

- 2.1. This Policy applies to all Participants. Any Participant who is directly affected by a Decision made by SSC shall have the right to appeal that Decision provided that it is a Decision that is subject to appeal pursuant to this Policy under Section 2.2, provided that there are sufficient grounds for the appeal under the Section 5.1 of this Policy, and provided that the appeal has been filed in accordance with Section 4 of this Policy.
- 2.2. This Policy will only apply to SSC Decisions relating to:
  - a) Eligibility
  - b) Selection
  - c) Conflict of Interest
  - d) Disciplinary Decisions made pursuant to SSC's relevant and applicable policies
  - e) Membership

Such Decisions must be appealed under this Policy before any other appeal or challenge may be taken.

- 2.3. This Policy will **not apply** to items relating to:
  - a) Employment;
  - b) Infractions for doping offenses which are dealt with pursuant to the Canadian Anti-Doping Program by the Canadian Centre for Ethics in Sport, or any other anti-doping organization with authority to pursue a doping offence;
  - c) The rules of the sport or the application of the rules of the sport during a competition;
  - d) Selection criteria, quotas, policies, and procedures established by entities other than SSC;
  - e) Substance, content and establishment of team selection or carding criteria;
  - f) Decisions made by Sport Canada with regards to carding;
  - g) Volunteer/coach appointments and the withdrawal or termination of those appointments;
  - h) Budgeting and budget implementation;
  - i) SSC's operational structure and committee appointments;
  - j) Decisions or discipline arising within the business, activities, or events organized by entities other than SSC, such as Provincial or Territorial Sport Organizations (appeals of these Decisions shall be dealt with pursuant to the policies of those other entities;

- k) Commercial or contractual matters for which another dispute resolution process exists under the provisions of the applicable contract or applicable law;
- l) Complaints that were managed by the Sport Integrity Commissioner (OSIC);
- m) Decisions made by the OSIC, the Director of Sanctions and Outcomes (DSO), the Safeguarding Tribunal of the Sport Dispute Resolution Center of Canada (SDRCC) relating to a UCCMS violation involving a UCCMS Participant (appeals of these Decisions shall be dealt in accordance with the policies and procedures of the respective entity); or
- n) Decisions made under this Policy
- o) Settlements negotiated pursuant to the Complaints and Discipline Policy

### 3. Definitions

3.1. Capitalized terms used in this Policy are defined in Appendix A.

### 4. Timing of Appeal

4.1. Participants who wish to appeal a decision have seven (7) days from the date on which they received notice of the Decision<sup>1</sup> to submit, in writing to SSC's dedicated independent Case Manager the following:

- a) Notice of the intention to appeal
- b) Contact information and status of the Appellant
- c) Name of the Respondent and any Affected Parties, when known to the Appellant
- d) Date the Appellant was advised of the decision being appealed
- e) A copy of the Decision being appealed, or description of Decision if the Decision was not rendered in writing
- f) Grounds and detailed reasons for the appeal
- g) All evidence that supports these grounds
- h) Requested remedy or remedies
- i) An administration fee of five hundred dollars (\$500), which will be refunded if the appeal is upheld

4.2. A Participant who wishes to initiate an appeal beyond the seven (7) day period may only do so if exceptional circumstances prevented them from filing their appeal within the indicated deadline. Any such Participant must provide a written request stating the reasons for which they are seeking an exemption. The decision to allow, or

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<sup>1</sup> SSC (or its delegate) may notify decisions via the following means: email to the Participant's most recent email address that it has on file; publication on SSC's website, or other electronic means that permit direct communication with the Participant, such as WhatsApp. In such circumstances, notification shall be deemed to have been received on the date that SSC publishes notification of the decision on its website and/or, as applicable, the date on which the Participant is sent the decision via email or the other electronic means.

not allow, an appeal outside of the seven (7) day period will be at the sole discretion of the Case Manager and may not be appealed.

## 5. Grounds for Appeal


- 5.1. A Decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
- a) Made a decision outside of its authority or jurisdiction (as set out in the Respondent's governing documents);
  - b) Failed to follow applicable procedures (as set out in the Respondent's governing documents) when making the decision;
  - 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 appears not to have considered other views); or
  - d) Made a decision that was patently unreasonable

A Decision may not be appealed simply because a Participant (or Participants) does not like or disagrees with a Decision.

- 5.2. The onus is upon the Appellant to demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the Decision or decision-maker. Decisions under appeal shall remain in effect unless the Appeal Panel or the SDRCC orders otherwise.

## 6. Screening of Appeal

- 6.1. Upon receiving the required documents and fees described in Section 4, by way of email, the Case Manager will first need to confirm that they are not in a conflict of interest or has any direct relationship with the Parties involved with the appeal. In the case that they declare a real or perceived conflict of interest, the Case Manager will recuse themselves and an alternative Case Manager will be appointed by the Chief Executive Officer.
- 6.2. The Case Manager has the following responsibilities, in addition to those otherwise described in this Policy:
- a) Determine if the appeal falls under the scope of this Policy
  - b) Determine if the appeal was submitted in a timely manner
  - c) Decide whether there are sufficient grounds for the appeal
  - d) Consider the use of mediation to resolve the appeal
  - e) Determine whether the internal appeal process under this Policy should be waived and the appeal be directed to the Sport Dispute Resolution Centre of Canada (SDRCC) to be heard pursuant to the Canadian Sport Dispute



Resolution Code. The Case Manager may make this decision, with the agreement of all parties to waive the internal process, only if they consider that the matter is of such urgency or of related to:

- i. Implementation of SSC's National Team programs
- ii. The selection to a team representing Canada at international events
- iii. Appeals submitted by a National Team Coach

6.3. If the Case Manager denies the appeal based on insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.

## **7. Determination of Affected Parties**

7.1. In order to ensure the identification of any Affected Parties, the Case Manager may engage SSC. The Case Manager will determine whether a Party is an Affected Party in their sole discretion. This decision may not be appealed, is final and cannot be challenged elsewhere prior to the appeal being heard. The Appeal Panel may identify an Affected Party at any stage of the procedure during an appeal process.

## **8. Early Dispute Resolution Facilitation**

8.1. Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), and if Grounds for Appeal exist under this Policy, the Case Manager will require the Appellant and the Respondent to attempt to resolve the dispute using the early resolution facilitation services offered by the SDRCC.

8.2. If the dispute is resolved during the early resolution facilitation, then the matter will be considered closed, final and not subject to further appeal. Unless minutes of the settlement were already prepared and duly executed by the Parties during the early resolution facilitation process, the Case Manager will document the outcome of the early resolution facilitation process and provide it in writing to both Parties. Any negotiated settlement will be binding on the Parties

8.3. Appeals resolved by early resolution facilitation will result in the administration fee being refunded to the Appellant.

8.4. If the matter of the appeal is time sensitive, the Case Manager shall set a deadline by which, absent a settlement, the early resolution facilitation process will be automatically terminated. Upon such deadline being reached or upon notice from any of the Parties that the early resolution facilitation was unsuccessful, the Case Manager will take the appeal to the next step.

## 9. Procedure for Appeal Hearing

- 9.1. If the dispute is not resolved using early resolution facilitation, the Case Manager will appoint an Appeal Panel which shall consist of a single (1) Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three (3) persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Appeal Panel's members to serve as the Chair.
  - a) The scope of the review shall be akin to judicial review and that the standard of review will be that of reasonableness.
- 9.2. The Case Manager shall notify the Parties that the appeal will be heard. The Case Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.
- 9.3. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
- 9.4. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and Appeal Panel deem appropriate in the circumstances, provided that:
  - a) The hearing will be held in a timely manner within a timeline determined by the Case Manager and Appeal Panel
  - b) The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
  - c) Copies of any written documents which the Parties wish to have the Appeal Panel consider will be provided to all Parties in advance of the hearing
  - d) The Parties may be accompanied by a representative, advisor, translator, transcriptions services, or legal counsel at their own expense
  - e) The Appeal Panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
  - f) The Appeal Panel may allow any evidence at the hearing filed by the Parties and may exclude any evidence if unduly repetitious or otherwise an abuse of process. The Appeal Panel shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to evidence filed by the Parties.
  - g) Nothing is admissible in evidence at a hearing that:
    - i. Would be inadmissible in a court by reason of any privilege under the law of evidence; or


- ii. Is inadmissible by any statute
- h) If a decision in the appeal may affect another Party to the extent that the other Party would have recourse to an appeal in their own right under this Policy, that Party will become a Party to the appeal in question and will be bound by its outcome
- i) Any Affected Party shall be permitted to make submissions and file evidence before the Appeal Panel. The Appeal Panel's decision is binding on any Affected Party.
- j) The decision to uphold or reject the appeal will be by a majority vote of Appeal Panel members, except in cases where the panel consists of a single member

9.5. In fulfilling its duties, the Appeal Panel may obtain independent advice.

## 10. Appeal Decision

- 10.1. The Appeal Panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Appeal Panel will have no greater authority than that of the original decision-maker. The Appeal Panel may decide to:
- a) Reject the appeal and confirm the decision being appealed
  - b) Uphold the appeal, in whole or in part, and refer the matter back to the initial decision-maker for a new decision
  - c) Uphold the appeal, in whole or in part, and vary the decision
  - d) Determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, may be assessed against any Party. In assessing costs, the Appeal Panel will take into account the nature and amount of the costs, the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources
- 10.2. The Appeal Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and SSC. In extraordinary circumstances, the Appeal Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter.
- 10.3. Subject to Section 10.5, the Appeal Panel's decision will be considered a matter of public record unless decided otherwise by the Appeal Panel. SSC, as appropriate in each circumstance, shall exclude such information from the public record as may be appropriate in the context of each case, having regard to such factors as the age of the Appellant(s) or other Affected Party(ies), the nature of the decision, and the extent to which personal information of any individual forms part of the decision. SSC may publish the outcome of the appeal on its website.



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- 10.4. If the Appeal Panel dismisses the appeal, the decision may only be published with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the Parties, the Case Manager and SSC, and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to the SSC Complaints and Discipline Policy.
- 10.5. Other individuals or organizations, including but not limited to, other national sport or multisport organizations, Provincial/Territorial sport organizations, clubs and affiliated organizations may be advised by SSC of the outcome of any Decisions rendered in accordance with this Policy, including those rendered against a Vulnerable Participant. Any decision rendered pursuant to this Policy shall apply automatically to and must be respected by SSC and its Members, Clubs and Affiliated Organizations. Records of all Decisions will be maintained by SSC in accordance with their respective privacy policies.
- 10.6. The Appeal Panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the Appeal Panel. The Appeal Panel's decision is final and binding on the Parties, subject to the right of any Party to appeal the decision to the SDRCC. In such circumstances, the deadline to file any appeal to the SDRCC shall be within seven (7) days of the appealing Party's receipt of the Appeal Panel's decision.

## **11. Timelines**

- 11.1. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Case Manager and/or Appeal Panel may direct that these timelines be revised.

## **12. Confidentiality**

- 12.1. The appeal process is confidential and involves only the Parties, the Case Manager, the Appeal Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any individual not involved in the proceedings. Failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Participant(s) in accordance with the SSC Complaints and Discipline Policy.

## **13. Final and Binding**

- 13.1. No action or legal proceeding will be commenced against SSC or its' Participants in respect of a dispute, unless SSC has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.

## 14. Privacy

- 14.1. The collection, use and disclosure of any personal information pursuant to this Policy is subject to the SSC Privacy Policy.
- 14.2. SSC or any of their delegates pursuant to this Policy (i.e., Case Manager, Appeal Panel), shall comply with SSC's Privacy Policy in the performance of their services under this Policy.

## 15. Governance

### Approval & Review

- 15.1. The SSC Board of Directors will review and/or revise this Policy as new information becomes available and, at a minimum, once every three (3) years or as often as necessary. Any significant policy amendments must be approved by the SSC Board of Directors.
- 15.2. This Policy was approved by the SSC Board of Directors on August 29, 2023.
- 15.3. This Policy was last reviewed by the SSC Board of Directors on August 29, 2023.

### Language

- 15.4. SSC policies are published in both English and French. In the case of conflict between the text of any English and French version of an SSC policy, the English version will be used to interpret the intended meaning found in the French policy.

### Related Policies

- 15.5. SSC's full policy suite is accessible on the [Speed Skating Canada website](#).



# APPENDICES

## Appendix A: Definitions

Terms in this Policy are defined as follows:

- a) *"Affected Party or Parties"* Any Participant(s) or entity, as determined by the Case Manager, who may be affected by a decision rendered under this Appeal Policy and who may have recourse to an appeal in their own right under this Appeal Policy
- b) *"Appeal Panel"* – person or persons assigned by the Case Manager under Section 9.1 of this Policy to hear the internal appeal and deliver a decision;
- c) *"Appellant"* – The Party appealing a decision
- d) *"Case Manager"* – The dedicated independent person(s) appointed on an annual basis by the Chief Executive Officer to oversee the application of this Policy and to fulfil the responsibilities described herein. The Case Manager must not be in a conflict of interest or have any direct relationship with the Parties involved with any appeal case.
- e) *"Decision(s)"* - a Speed Skating Canada decision relating to a matter described in section 2 of this Policy.
- f) *"Members"* – Includes Provincial/Territorial Organizations (PTSOs) as defined in SSC's Bylaws
- g) *"Participant(s)"* – Refers to all categories of Members and/or Registrants defined in the Bylaws of SSC and in the By-laws of a Member, as well as all people employed by, contracted by, or engaged in activities with SSC and/or a Member including without limitation athletes, coaches, officials, volunteers, administrators, directors, employees, trainers, parents, spectators, etc.
- h) *"Parties"* – The Appellant, Respondent, and any other individual(s) affected by the appeal
- i) *"Respondent"* – The body or person whose decision is being appealed