



Canadian Cycling Association  
Association cycliste canadienne

# Appeals Policy

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1. The purpose of this Policy is to enable disputes with members to be dealt with fairly, expeditiously and affordably, within the CCA and without recourse to external legal procedures.
2. Any individual who is a member of CCA will have the right to appeal a decision of the CCA Board of Directors, of any Committee of the Board, or of any body or individual who has been delegated authority to make decisions on behalf of the Board subject to the limits set out in Articles 4, 5 and 8 of this Policy.
3. This Policy will apply to decisions made by the CCA relating to eligibility, selection, allocation of competitive opportunities, harassment, discipline or Athlete Assistance Program (“AAP”) carding nominations.
4. For further clarity, this Policy will not apply to matters relating to:
  - a) Selection criteria, quotas, policies and procedures established by entities other than the CCA;
  - b) Notwithstanding Item 3. above; for any matters related to the Athlete Assistance Program nomination or de-carding, all appeals must follow the Policies and Procedures of Sport Canada's Athlete Assistance Program (AAP) Section 13 <http://www.pch.gc.ca/pgm/sc/pol/athl/114-eng.cfm>.
  - c) Policy and procedures established by any other agency, association or organization external to the CCA;
  - d) Infractions for doping offences, which are dealt with pursuant to the *Canadian Anti-Doping Program* or any successor policy.
  - e) Issues of operational structure, staffing, employment or allocation of volunteer leadership opportunities;
  - f) Issues of budgeting or budget implementation;
  - g) Disputes over competition rules; or
  - h) Commercial matters for which another dispute resolution process exists under a contract or applicable law.
5. The CCA will appoint a Case Manager to oversee management and administration of

appeals submitted in accordance with this Policy. The Case Manager has an overall responsibility to ensure procedural fairness is respected at all times in this Policy, and to implement this Policy in a timely manner. More particularly, the Case Manager has a responsibility to:

- a) Receive appeals;
  - b) Determine if appeals lie within the jurisdiction of this Policy;
  - c) Determine if appeals are brought in a timely manner;
  - d) Determine if appeals are brought on permissible grounds;
  - e) Appoint the tribunal to hear appeals;
  - f) Determine the format of the appeal hearing;
  - g) Coordinate all administrative and procedural aspects of the appeal;
  - h) Provide administrative assistance and logistical support to the tribunal as required; and
  - i) Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.
6. The following timelines govern this policy. Note that 'days' refers to total number of days, exclusive of weekends or holidays. The Case Manager reserves the right to modify these timelines to accommodate the particular circumstances of any appeal:
- a) Notice of Appeal (Section 7): 7 days from the written announcement of the decision being appealed.
  - b) Screening appeal (Section 10): 3 days from receipt of the Notice of Appeal.
  - c) Appointment of tribunal (Section 11): 2 days from decision that the appeal may proceed to a hearing.
  - d) Scheduling of hearing (Section 12): 7 days from appointment of tribunal.
  - e) Release of decision (Section 13): 5days from conclusion of hearing.
7. Members who wish to appeal a decision must submit a written Notice of Appeal to the Case Manager within the appropriate timeline indicating:
- a) Their intention to appeal;
  - b) Coordinates of the Appellant;
  - c) Name of the Respondent;
  - d) Detail reason(s) for the appeal;
  - e) Grounds for the appeal;
  - f) Summary of the evidence to support these reason(s) and grounds for the appeal; and
  - g) The suggested remedy or remedies requested.

All appeals must be accompanied by a \$250 administrative fee, which is refundable in cases where the appellant is successful through the internal appeal process.

8. Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent:
- a) Making a decision for which it did not have authority or jurisdiction as set out in governing documents;
  - b) Failing to follow procedures as laid out in the bylaws or approved policies of the

- Association;
- c) Making 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 other views or that the decision was influenced by factors unrelated to the substance or merits of the decision;
  - d) Failing to consider relevant information or taking into account irrelevant information in making the decision;
  - e) Exercising its discretion for an improper purpose; and/or
  - f) Making a decision that was grossly unreasonable.
9. The Appellant will bear the onus of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 8.
10. Within the appropriate timeline the Case Manager will review the Notice of Appeal and will decide whether or not there are sufficient grounds for an appeal. If the Case Manager is satisfied that there are not sufficient grounds for an appeal, the parties will be notified of this decision in writing, stating reasons. If the Case Manager is satisfied that there are sufficient grounds for an appeal, then a hearing will take place.
11. Within the appropriate timelines, the Case Manager will appoint a tribunal consisting of a single Adjudicator to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a tribunal of three persons may be appointed to hear and decide a case. In this event, the Case Manager will appoint one of the tribunal's members to serve as the Chair.
12. The Case Manager will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by telephone, a hearing based on written submissions or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the tribunal deem appropriate in the circumstances, provided that:
- a) The hearing will be held within the appropriate timeline.
  - b) The parties will be given appropriate notice of the day, time and place of the hearing.
  - c) Copies of any written documents which the parties wish to have the tribunal consider will be provided to all parties in advance of the hearing in accordance with the appropriate timeline.
  - d) Both parties may be accompanied by a representative or adviser, including legal counsel.
  - e) The tribunal may request that any other individual participate and give evidence at the hearing.
  - f) 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.
  - g) The hearing will be conducted in the official language of choice of the Appellant.
  - h) In the situation where the hearing is conducted by a tribunal consisting of three persons, a quorum will be all three and decisions will be by majority vote.
13. At the conclusion of the Hearing, the tribunal will, within the appropriate timeline, issue

a written decision with reasons. The tribunal will have no greater authority than that of the original decision-maker. The tribunal may decide:

- a) To reject the appeal and confirm the decision being appealed; or
  - b) To uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
  - c) To uphold the appeal and vary the decision but only where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedures, lack of time, or lack of neutrality; and
  - d) To determine whether costs of the appeal, excluding legal fees and legal disbursements of any parties, will be assessed against any party. In assessing costs, the tribunal will take into account the outcome of the appeal, the conduct of the parties and their respective financial resources.
14. The decision will be considered a matter of public record. A copy of this decision will be provided to the parties and to the Chief Executive Officer of the CCA. Where time is of the essence, the tribunal may issue a verbal decision or a summary written decision, with reasons to follow provided the written decision with reasons is rendered with the appropriate timelines.
15. The appeal process is confidential involving only the parties, the Case Manager and the tribunal. Once initiated and until a written decision is released, none of the parties or the tribunal will disclose confidential information relating to the appeal to any person not involved in the proceedings.
16. The decision of the tribunal will be final and binding upon the parties and upon all members of CCA subject to the right of any party to seek a review of the decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC) as amended from time to time, and subject to these limitations:
- a) The 'law' to be considered by the SDRCC tribunal is the internal rules, selection criteria and policies of CCA;
  - b) The 'facts' to be considered by the SDRCC tribunal are the facts relevant to the case under appeal;
  - c) If the SDRCC tribunal determines that CCA has made a decision in error, the role of the tribunal is to identify that error and send the matter back to the CCA to make the decision free from error, unless this is not possible or practical;
  - d) The parties will execute an arbitration agreement that will confirm the jurisdiction of the SDRCC tribunal to decide the matter, specify the precise decision under appeal, specify the issues in dispute and specify other matters the parties agree will be binding on themselves and the SDRCC tribunal.