



Appeal Policy

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1. GOAL

1.1 This policy provides a process for handling appeals of Cycling Canada (CC) decisions.

2. PRINCIPLES

2.1 Any Participant has the right to appeal a decision of the Board, of any CC Committee, or of any external organization or individual who has been delegated authority to make decisions on behalf of CC, subject to the limits set out in clauses 3.2, 6.2, and 6.5 of this Policy.

2.2 Any such appeal must be filed according to the Provisions in this Policy. Only after a decision has been rendered under this Policy may an appeal request be filed with the Sport Dispute Resolution Centre of Canada (SDRCC) as per clause 6.14.

3. FIELD OF APPLICATION

3.1 This Policy will apply to decisions made by CC relating to eligibility, selection, selection criteria, allocation of competitive opportunities, harassment, discipline, or Athlete Assistance Program (“AAP”) carding nominations, carding re-nominations, or carding withdrawal recommendations.

3.2 For further clarity, this Policy will **NOT** apply to matters relating to:

- a) Athlete Assistance Program decisions that do not concern nomination or de-carding;
- b) Policies and procedures, selection criteria, and quotas established by any organization external to CC;
- c) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program or any successor policy;
- d) Issues of operational structure, staffing, employment or allocation of volunteer leadership opportunities;
- e) Issues of budgeting or budget implementation;
- f) Disputes over competition rules; or
- g) Commercial matters for which another dispute resolution process exists under a contract or applicable law.

4. DEFINITIONS

4.1 **Board:** the Board of Directors of Cycling Canada.

- 4.2 **Committee:** a standing, ad hoc or operational committee of Cycling Canada.
- 4.3 **Member:** A Member is any provincial or territorial association admitted as a Member by the Board.
- 4.4 **Participant:** A Participant is any individual, in good standing with a Member, who participates in any one of the cycling sports, or who acts as a coach, official, volunteer, support personnel, or committee member with CC or with a Member.
- 4.5 **Appellant:** The Appellant is the individual who initiates the appeal.
- 4.6 **Respondent:** The Respondent is the person or organization that is required to respond to the appeal submitted by the Appellant.
- 4.7 **Statement:** The written response submitted by the Respondent.
- 4.8 **Tribunal:** The Tribunal is the arbitrator or arbitrators selected by the Case Manager to conduct the Hearing and render a decision in the matter.
- 4.9 **Hearing:** The method of listening to the submissions from the Appellant and the Respondent in a manner that the Tribunal determines appropriate to render a decision.
- 4.10 **Case Manager:** The individual who reviews the appeal, determines if it will proceed, and ensures that this Policy is followed through to the decision in a timely manner.
- 4.11 **Days:** Calendar days, including weekends and holidays.
- 4.12 **Interested Parties:** Participants or other individuals who would be directly affected or impacted by a decision of the Tribunal.
- 4.13 **SDRCC:** Sport Dispute Resolution Centre of Canada.

5. POLICY STATEMENT

- 5.1 CC is committed to conducting appeals by applying a standard, timely, transparent, affordable, and fair process.

6. PROVISIONS

- 6.1 Whenever possible, the Appellant and the Respondent are encouraged to seek an amicable settlement of disputes through open and frank discussion prior to submitting a formal appeal.
- 6.2 The following maximum timelines govern this Policy. The Case Manager reserves the right to modify these timelines to accommodate the particular circumstances of any appeal:

Appeal Process Step (Policy Subsection)	Maximum Duration	Cumulative Days
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Notice of Appeal (6.3)	14 days from written announcement of the decision being appealed	14
Screening of Appeal (6.5)	4 days from receipt of Notice of Appeal	18
Statement by Respondent (6.6)	4 days from receipt of Notice of Appeal transmitted to Respondent	22
Appointment of Tribunal (6.7)	4 days from Screening of Appeal decision that the appeal may proceed to a Hearing.	22
Early Resolution Facilitation (6.8)	No set timeline but must be completed prior to Conduct of Hearing.	28 (max.)
Conduct of Hearing (6.9 to 6.12)	7 days from appointment of Tribunal	29
Release of Decision (6.13)	7 days from conclusion of a Hearing	36
<i>SDRCC Request for Review (by either party) (6.14)</i>	<i>15 days from release of Decision. The SDRCC process is not part of this policy.</i>	<i>N/A</i>

6.3 **Notice of Appeal:** Participants who wish to formally appeal a decision must submit a written Notice of Appeal to CC within the appropriate timeline and must provide:

- a) Name, address, daytime telephone number and email address of the Appellant;
- b) Name, address, daytime telephone number and email address of the Appellant's representative, if applicable;
- c) Official Language in which the Appellant wishes to communicate;
- d) Name of the Respondent;
- e) Text of the decision and/or summary or notification of the decision, as applicable;
- f) Detailed reason(s) for the appeal;
- g) Grounds for the appeal;
- h) Summary of the evidence to support these reason(s) and grounds for the appeal; and
- i) The suggested remedy or remedies requested.

All formal appeals must be accompanied by a \$250 administrative fee. This fee is refundable in cases where an amicable settlement is reached prior to a Hearing or if the Tribunal upholds the appeal.

6.4 The CEO, or the President in the case of an appeal involving the CEO, will appoint a Case Manager to oversee management and administration of an appeal submitted in accordance with this Policy. The Case Manager has overall responsibility to ensure procedural fairness is respected at all times during the appeal process, and to implement this Policy in a timely manner.

6.5 **Screening of Appeal:** Within the appropriate timeline, the Case Manager shall screen the appeal to determine if the appeal lies within the jurisdiction of this Policy, determine if the appeal has been brought in a timely manner, and determine if the appeal has been brought on permissible grounds. Permissible grounds exist only when the Respondent has:

- a) Made a decision for which it did not have authority or jurisdiction as set out in governing documents;
- b) Failed to follow procedures as laid out in CC's bylaws or approved policies;

- 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 other views or if the decision was influenced by factors unrelated to the substance or merits of the decision;
- d) Failed to consider relevant information or took into account irrelevant information in making the decision;
- e) Exercised its discretion for an improper purpose; and/or
- f) Made a decision that was grossly unreasonable.

Upon receiving the Notice of Appeal, the Case Manager will contact the Appellant if the notice is incomplete or to seek clarifications.

If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified in writing, within the appropriate timeline for Screening the Appeal, of this decision and its reasons.

If the Appellant believes the Case Manager erred in denying the right to appeal a decision, the Appellant may immediately seek an external appeal in accordance with Section 6.14.

6.6 **Statement by Respondent:** If the Appeal is deemed admissible, the Case Manager will forward a copy of the Notice of Appeal to the Respondent and will request a written Statement by the Respondent that outlines the justification for the decision being appealed. The Statement will contain:

- a) A summary of facts relating to the matter;
- b) All of the evidence supporting the Respondent's position including a list of witnesses and the evidence to which they will testify, if applicable;
- c) Solutions proposed by the Respondent;
- d) Any potential Interested Parties and their contact information, if applicable; and
- e) The name and contact information of the Respondent's representative, if applicable.

The written Statement must be returned to the Case Manager within the appropriate timeline. The Case Manager must forward a copy of the written Statement to the Appellant without delay after receipt.

If the Respondent submits an incomplete Statement or fails to submit the Statement in writing within the time limit, then the Case Manager will initiate the appointment of a Tribunal, without further delay, without a further attempt to settle amicably and will notify the parties accordingly.

6.7 **Appointment of Tribunal:** Within the appropriate timelines, the Case Manager will appoint a Tribunal consisting of a single Arbitrator 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.

6.8 **Early Resolution Facilitation:** Before conducting a Hearing, the Case Manager will invite the Appellant and the Respondent to resolve the dispute using the Early Resolution Facilitation services offered by SDRCC. If the dispute is resolved during the Early

Resolution Facilitation, then the matter will be considered closed. Unless minutes of the settlement were already prepared and duly executed by the parties during the Early Resolution Facilitation, the Case Manager will document the outcome of the Early Resolution Facilitation process, and provide it in writing to both parties. 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 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. No evidence from the Early Resolution Facilitation discussions is admissible in the subsequent Hearing process.

- 6.9 **Conduct of Hearing:** 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 an Interested 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;
- 6.10 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.
- 6.11 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.
- 6.12 The Tribunal will also decide 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.

- 6.13 **Release of Decision:** The decision will be considered a matter of public record. A copy of the decision will be provided to the parties and to the CEO. 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.
- 6.14 **SDRCC Appeal Process:** The decision of the Tribunal will be final and binding upon the parties and upon all Participants of CC subject to the right of any party to seek a review of the decision pursuant to the rules of 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 CC;
 - 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 CC has made a decision in error, the role of the tribunal is to identify that error and send the matter back to CC 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.
 - e) As per clause 3.5 of the Canadian Sport Dispute Resolution Code, the party seeking a review of an appeal decision must file a Request with the SDRCC within 15 days of the decision being appealed. This time limit will be set from the later of:
 - i. the date on which the Claimant (the Appellant) becomes aware of the existence of the dispute;
 - ii. the date on which the Claimant (the Appellant) becomes aware of the decision being appealed; or
 - iii. the date on which the last step in attempting to resolve the dispute occurred, as determined by the SDRCC. The SDRCC may, in its discretion, refer this issue to a Panel.

7. REVIEW AND APPROVAL

- 7.1 Original policy development lead: Kevin Baldwin, Bill Kinash, Greg Mathieu
- 7.2 Current policy development lead: Bill Kinash, Hannah Parish, Kris Westwood.