

APPEAL POLICY

Purpose

1. This *Appeal Policy* provides Participants with a fair, affordable, and expedient appeal process.

Scope and Application of this Policy

2. This *Policy* applies to all Participants. However, it does not apply to appeals any decision related to the application of the UCCMS made by the OSIC, the Director of Sanctions and Outcomes, the SDRCC's Safeguarding Tribunal or any other competent instance within the Abuse-Free Sport program, which shall be handled in accordance with the policies and procedures of the OSIC or the Director of Sanctions and Outcomes, as applicable. Further, this *Policy* **does not** apply to coaches, who shall be subject to the appeal procedures of the OSIC (where applicable) or the sport organization (i.e., the national sport organization, provincial or territorial sport organization) that has authority over the coach. Sanctions or outcomes imposed on appeal by the OSIC or any sport organization with authority over a coach shall be automatically implemented by the SIRC, as provided in the *Discipline and Complaints Policy*.
3. Subject to Section 2, any Participant who is directly affected by a decision taken by the Sport Information Resource Centre ("SIRC") specifically with regard to that Participant by the Board, by any Committee of the Board or by any body or Participant within the SIRC who has been delegated authority to make decisions in accordance with the SIRC's by-laws and governance policies (as applicable), shall have the right to appeal that decision provided that it is a decision that is subject to appeal pursuant to Section 4 of this *Policy*, that the conditions indicated in Sections 5 or 6 of this *Policy* (as applicable) have been satisfied, and provided that there are sufficient grounds for the appeal under the 'Grounds for Appeal' section of this *Policy*.
4. This *Policy* **only applies** to decisions relating to:
 - a) Conflict of interest
 - b) Disciplinary decisions made pursuant to the SIRC's relevant and applicable policies
 - c) Membership

For the avoidance of doubt, this *Policy* does not apply to any other SIRC decision except for those expressly listed above.

Timing of Appeal

5. Participants who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit to the CEO the following:
 - a) Notice of the intention to appeal
 - b) Their contact information
 - 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 the decision if a written document is not available
 - 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 two hundred dollars (\$200), which will be refunded if the appeal is upheld
6. 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 deadline indicated

in Section 5 above. Any such Participant must provide a written request stating the reasons for which they are seeking an exemption. The decision to allow, or not allow, an appeal outside of the seven (7) day period will be at the sole discretion of the Appeal Manager.

Grounds for Appeal

7. A decision cannot be appealed on its merits alone or because a Participant (or Participants) do not like or agree with a decision. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
 - a) Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make;
 - b) Failed to follow its own procedures (as set out in the Respondent's 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 appears not to have considered other views);
or
 - d) Made a decision that was grossly unreasonable or unfair.
8. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 7 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 Sport Dispute Resolution Centre ("SDRCC") orders otherwise.
9. Notwithstanding any other provision in this *Appeal Policy*, by agreement between all of the Parties, the internal appeal process in relation to decisions made by SIRC, a Case Manager, Appeal Manager or a discipline panel appointed by SIRC may be bypassed, and the appeal may be heard directly before the SDRCC.
10. Except where an appeal proceeds before the SDRCC, SIRC shall appoint an Appeal Manager and shall follow the process outlined in Sections 11 and following of this *Appeal Policy*.

Appointment of Appeal Manager and Screening of Appeal

11. Upon receipt of an appeal, the SIRC will appoint an independent Appeal Manager (who must not be in a conflict of interest or have any direct relationship with the Parties) who has the following responsibilities:
 - a) To determine if the appeal falls under the scope of this *Policy* (Sections 2-4)
 - b) To determine if the appeal was submitted in a timely manner (Sections 5 and 6)
 - c) To decide whether there are sufficient grounds for the appeal (Section 7)
12. If the Appeal Manager denies the appeal on the basis of 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.
13. If the Appeal Manager accepts an appeal because it falls under the scope of this *Policy*, there are sufficient grounds and it was submitted in a timely manner, the Appeal Manager will notify the Parties of their decision in writing and will follow the steps described hereunder.

Appointment of Appeal Panel

14. If an appeal is accepted, the Appeal Manager will appoint an appeal panel which shall consist of a single member to hear the appeal. However, at the discretion of the Appeal Manager, an appeal panel composed of three members may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the panel's members to serve as the chair.

15. When appointing the appeal panel, the Appeal Manager must select individuals who are impartial, free from any real or perceived conflict of interest (and who shall remain so until a final decision has been rendered or the proceedings have otherwise finally terminated), and who do not have any direct relationship with any of the Parties. When justified by the circumstances, the Appeal Manager may appoint individuals to the appeal panel who have specific areas of expertise that would assist in resolving the matter.

Determination of Affected Parties

16. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage the SIRC. The Appeal Manager may determine whether a Party is an Affected Party in their sole discretion.

Procedure for Appeal Hearing

17. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager, in collaboration with the appeal panel, shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.
18. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
19. 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, a hearing based on documentary submissions alone, or a combination of these methods. The hearing will be governed by the procedures that the Appeal Manager and the 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 Appeal Manager
 - 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, transcription services, or legal counsel at their own expense
 - e) The appeal panel may request that any other Participant participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
 - f) The appeal panel shall allow any evidence at the hearing filed by the Parties and may exclude any evidence is 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) 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.
 - i) The decision to uphold or reject the appeal will be by a majority vote of the appeal panel members, except in cases where the panel consists of a single member
20. In fulfilling its duties, the appeal panel may obtain independent advice.

Appeal Decision

21. 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 the 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.
22. The appeal panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and the SIRC. 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.
23. Subject to Section 24 below, unless the matter involves a Vulnerable Participant, once the deadline to appeal to the SDRCC (where applicable), as indicated in the Canadian Sport Dispute Resolution Code, has expired, the SIRC shall publish the outcome of the appeal on their website. Publication shall be limited to, where applicable, the provision(s) of any relevant policies that have been violated, the name(s) of the Participant(s) involved, the sanction(s) or order imposed, if any. Identifying information regarding Minors or Vulnerable Participants will never be published by the SIRC.
24. If the appeal panel dismisses the appeal, the decision may only be published, as provided for in Section 23, with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the Parties, the Appeal Manager and the SIRC, 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 this *Policy*.
25. Other individuals or organizations may be advised of the outcome of any decisions rendered in accordance with this *Policy*, but only in circumstances where it is necessary to provide notice to such individuals or organization to implement an imposed sanction.
26. Records of all decisions will be maintained by the SIRC in accordance with their respective privacy policies.
27. The appeal panel's decision will come into effect as of the date that it is rendered, unless decided otherwise by the appeal panel.
28. The appeal panel's decision is final and binding on the Parties, subject to any right to appeal the decision before the SDRCC in accordance with the *Canadian Sport Dispute Resolution Code*.

Timelines

29. 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 Appeal Manager and/or Panel may direct that these timelines be revised.

Confidentiality

30. The appeals process is confidential and involves only the Parties, the Appeal 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 person not involved in the proceedings.

31. Any failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Participant(s) in accordance with the SIRC's *Discipline and Complaints Policy*.

Final and Binding

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

Privacy

33. The collection, use and disclosure of any personal information pursuant to this *Policy* is subject to the SIRC's *Privacy Policy*.

34. The SIRC or any of its delegates pursuant to this *Policy* (i.e., Appeal Manager, appeal panel), shall comply with the SIRC's Privacy Policy in the performance of their services under this *Policy*.

Definitions

Terms in this *Policy* are defined as follows:

- a) **Affected Party** - Any Individual or entity, as determined by the Appeal Manager, who may be affected by a decision rendered under the *Appeal Policy* and who may have recourse to an appeal in their own right under the *Appeal Policy*.
- b) **Appellant** – the Party appealing a decision pursuant to this *Policy*
- c) **Appeal Manager** - An individual appointed by the SIRC who may be any staff member, committee member, volunteer, director, or an independent third party, to oversee the administration of this *Appeal Policy*. The criteria to appoint an Appeal Manager and the Appeal Manager’s responsibilities are described in this *Appeal Policy*
- d) **Days** – calendar days¹
- e) **Director of Sanctions and Outcomes** – Responsible for overseeing the imposition of Provisional Measures, agreed outcomes, Sanctions and appearing before the Safeguarding Tribunal or the Appeal Tribunal in cases arising from a potential breach of the UCCMS (or other conduct rules, as applicable)
- f) **Minor** – as defined in the *UCCMS*.
- g) **Parties** – the individuals involved in an appeal, which include the Appellant, Respondent and any Affected Party.
- h) **OSIC** - Office of the Sport Integrity Commissioner, an independent division of the SDRCC which comprises the functions of the Sport Integrity Commissioner
- i) **Participant(s)**– Refers to any SIRC employee, board member, contractor, volunteer, administrator, or committee member.
- j) **Respondent** – The Party responding to the appeal.
- k) **UCCMS** - *Universal Code of Conduct to Prevent and Address Maltreatment in Sport*, as amended from time to time by the SDRCC
- l) **UCCMS Participant** - A Participant affiliated with the SIRC who has been designated by the SIRC as a UCCMS Participant and who has signed the required consent form. For the SIRC, UCCMS Participants include SIRC employees, board members, volunteers, Sport Leadership speakers and participants and contractors.

¹ For the purpose of calculating deadlines, the following shall apply: the day of the act is not included in the calculation (i.e., the date of receipt of a decision is not Day 1); instead, the deadline would start on the day following receipt of the decision and would expire at midnight (in the location of the individual seeking to file an appeal) on the last day of the period. If the end date is a Saturday, a Sunday or a legal holiday, the period runs until the next day that is not a Saturday, a Sunday or a legal holiday. For example, if an Individual receives a decision on Thursday December 17, 2020, the 14-day deadline to appeal this decision starts on Friday December 18, 2020 and would expire on Friday January 1, 2021. However, since January 1, 2021 is a legal holiday, January 2, 2021 is a Saturday, and January 3, 2021 is a Sunday, the deadline to appeal would expire at midnight (in the location of the individual seeking to file an appeal) on January 4, 2021.

m) ***Vulnerable Participant*** – as defined in the UCCMS