
Canada Games Council

**Policies and Procedures
Dispute Resolution**

Policy Number:**Name: Dispute Resolution****Origin: Governance Committee****Approval by: Board of Directors****Original Approval Date: June 30, 2005****Next Review Date: September 2010****Revision Approval Date(s): April 26, 2006****Related Policy References:**

1. Policy Statement

The Canada Games Council (the 'Council') is committed to making fair and ethical decisions in a transparent manner, and is committed to be accountable for such decision-making through dispute resolution processes.

2. Purpose

The purpose of this policy is to provide direction as to how disputes within the Council, and between the Council and its partners and stakeholders will be handled. The policy also ensures that individuals or organizations that have a dispute with decisions of the Council, its committees, officers or staff are afforded 'due process' in the resolution of these disputes.

3. Jurisdiction

This policy applies to any athlete, coach, manager, mission staff, technical official, official, host society volunteer or staff, Host Society corporate entity, National Sport Organization or other stakeholder that is affected by a decision of the Council or 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.

This policy applies to, but is not limited to, disputes regarding the application of:

- regulations for eligibility and residency of athletes;
- sport technical packages;
- the sport selection process;
- the harassment policy;
- the privacy policy
- the commercialization policy.

This policy also applies to matters related to provincial/territorial team (athlete, coach, manager, mission staff) discipline at the time of the Games, if a specific agreement for such exists between the Council and the team in question.

This policy does not apply to the following:

- Drug-testing or infractions for doping offences, which are governed by the Canadian Anti-Doping Program;
- Competition or "field of play" rules and regulations of National Sport Organizations;

- Selection of athletes, coaches, managers or mission staff to provincial/territorial teams;
- Personnel matters related to the professional staff of the Council;
- The existence or validity of Board-approved budgets, policies, procedures, criteria or processes.

A person or organization that may be sanctioned under this policy may also be subject to the disciplinary rules and procedures of other associations, clubs, organizations or institutions with which they are affiliated.

4. Correction of Ordinary Errors

From time to time, decisions may be made based upon incomplete information or simple misunderstanding of circumstances. In these cases, it may not be necessary for a decision to be challenged through a formal appeal. If a situation is presented to the Council with a request for a correction of an ordinary error, the Council in its sole discretion will determine if an ordinary error occurred and should be corrected. If the Council determines that an ordinary error has not occurred, the decision may be subject to a formal appeal. The correction of an ordinary error may, however, give rise to an appeal from another party. Ordinary errors will be corrected and communicated immediately.

5. Appointment of Adjudicator

Appeals under this policy will be heard by a single Adjudicator, appointed by the Council. The Adjudicator will be independent from the Council and will have had no involvement with the matter in dispute or with the parties in dispute.

For the period beginning 72 hours before the opening of a Games to 72 hours following the close of a Games, the Sport Dispute Resolution Centre of Canada (SDRCC) shall resolve disputes in accordance with its Code of procedure with no opportunity for further appeal of decisions taken in this time period. Such decisions, in this time period, are in place of the Adjudicator. The SDRCC Code shall take precedence over this policy.

6. Disclosure and Confidentiality

While the proceedings of appeals conducted under this policy will be private, decisions rendered by Adjudicators will be released to the public, unless the Adjudicator orders otherwise. In the case of issues arising under the scope of the Council's Harassment Policy, such matters shall normally be exempt from public release.

7. Grounds for appeal

An appeal may only be heard if it is based on permissible grounds. These grounds include 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 Council;
- 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;
- d) failing to consider relevant information or taking into account irrelevant information in making the decision;
- e) exercising its discretion for an improper purpose or in bad faith; and/or
- f) making a decision that was unreasonable.

Once appointed, the Adjudicator will review the notice of appeal and reasons for the appeal, and will determine whether or not there are sufficient grounds for an appeal. If the Adjudicator determines that there are not sufficient grounds for an appeal, he or she will notify the Appellant of this decision in writing, stating reasons. If the Adjudicator is satisfied that there are sufficient grounds for an appeal, he or she will conduct a Hearing. The decision of the Adjudicator on this matter is final and may not be appealed.

8. Authority

The Adjudicator has the authority to intervene in decision of the Council being appealed, but has no greater scope of authority than the Respondent who made the initial decision. The Adjudicator can make any decision the Respondent could have made, including any decision the Adjudicator considers the Respondent should have made in the circumstances. The Adjudicator may decide:

- a) To void, vary, or confirm the decision being appealed;
- b) To make any decision he or she feels the Respondent should have made;

- c) To refer the matter back to the Respondent for a new decision, correcting any errors that were made; and/or
- d) To determine how costs of the appeal will be allocated, if at all

9. Affected Parties

If the Council is of the view that the Adjudicator's decision 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, will have opportunity to participate in the appeal proceedings, and will be bound by the outcome.

10. Decision

The Adjudicator will provide his or her decision, with reasons, as soon as reasonably possible. Where the circumstances are such that an urgent decision is required, the Adjudicator may issue a verbal or summary decision, with a written decision to follow.

The decision of the Adjudicator will be final and binding, subject only to the jurisdiction of the Sport Dispute Resolution Centre of Canada (see section 13).

11. Costs

Parties to the appeal may request that the Adjudicator award costs for reasonable expenses incurred to participate in the appeal. Such a request will be made in writing, the other parties will have an opportunity to respond to the request in writing, and the Adjudicator will render a decision on the request within 15 working days. Costs may not be awarded on a punitive basis, or for intangibles such as for pain and suffering, hardship or loss of reputation.

12. Procedures

The President and CEO is delegated the authority to establish procedures and timelines for the hearing of disputes, with the procedures and timelines to be adapted to the nature and urgency of the dispute. If, in the sole judgment of the Adjudicator, the timelines and procedures are inappropriate to the dispute, the Adjudicator may substitute her/his procedures and timelines. Procedures, whether set by the President and CEO or the Adjudicator, must conform to this policy.

13. Sport Dispute Resolution Centre of Canada

Adjudicator's decisions may be eligible for appeal to the Sport Dispute Resolution Centre of Canada (SDRCC). Appellants must make written application to SDRCC to initiate mediation or arbitration. Disputes to the SDRCC shall follow the SDRCC's code and/or procedures, which shall take precedent over this policy. Decisions of the SDRCC are final and binding and not subject to appeal.

Policy History:

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Next Review Date: September 2010

For more information contact: Director of Sport