



## CANADIAN SPORT INSTITUTE CALGARY APPEALS POLICY

### Purpose:

1. The purpose of this policy is to enable disputes between athletes and coaches and the Canadian Sport Institute Calgary (CSI Calgary) to be dealt with fairly, expeditiously and affordably, without recourse to formal legal and court-like procedures.

### Application:

2. This policy applies to athletes and coaches who participate in programs, use facilities or receive services from the CSI Calgary. It applies to decisions made by the Board of Directors of the CSI Calgary, by any Committee of the Board of Directors of the CSI Calgary, or by anybody or individual who has been delegated authority to make decisions on behalf of the Board of Directors of the CSI Calgary. Any athlete/coach who is affected by such a decision may appeal the decision, provided there are sufficient grounds for the appeal as defined in this policy.

3. This policy does not apply to:

- a) Matters of employment;
- b) Matters that are within the jurisdiction of a National Sport Federation or International Sport Federation;
- c) Matters relating to the *Canadian Policy Against Doping in Sport* and the *Canadian Anti-Doping Program*;
- d) Matters relating to harassment;
- e) Decisions made under Section 9 of this policy; or
- f) The rules of any sport.

### Interpretation:

4. In the event of a dispute between the English and French versions of this policy, the English version shall take precedence. Timelines in this policy are in total days, irrespective of weekends or holidays. Where a deadline falls on a weekend or holiday, the next business day shall be the deadline for the purpose of this policy.

### Timing of Appeal:

5. Any athlete/coach who wishes to appeal a decision shall have ten (10) days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, to the President and CEO (or designate) of the CSI Calgary.

6. Any athlete/coach wishing to initiate an appeal beyond the ten (10) day period must provide a written request stating reasons for an exemption to the requirement of Section 5. The decision to allow, or not allow an appeal outside the ten (10) day period shall be at the sole discretion of the CSI Calgary President and CEO (or designate).

### Grounds of Appeal:

7. A decision cannot be appealed nor can an appeal be heard, on the merits of the decision. Decisions may only be appealed and appeals may only be heard, on procedural grounds. Procedural grounds are limited to the CSI Calgary:

- a) making a decision for which it did not have authority or jurisdiction as set out in the governing documents of the CSI Calgary;
- b) failing to follow procedures as laid out in the bylaws or approved policies of the CSI Calgary;
- 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) exercising its discretion for an improper purpose;
- e) making a decision that was grossly unreasonable.

### **Screening of Appeal:**

8. Within three (3) days of receiving the notice of appeal, the CSI Calgary President and CEO (or designate) shall decide whether or not the appeal is based on one or more of the grounds described in Section 7.

9. If the appeal is denied on the basis of insufficient grounds, the athlete/coach shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the CSI Calgary President and CEO (or designate) and may not be appealed.

### **Appeals Panel:**

10. If the CSI Calgary President and CEO (or designate) is satisfied that there are sufficient grounds for an appeal, within ten (10) days of having received the original notice of appeal the President shall establish an Appeals Panel (the "Panel") as follows:

- a) The Panel shall be comprised of three individuals who shall have no significant relationship with the affected parties, shall have had no involvement with the decision being appealed, and shall be free from any other actual or perceived bias or conflict;
- b) At least one the Panel's members shall be an athlete or coach; and
- c) The Panel's members shall select from themselves a Chairperson.

### **Preliminary Conference:**

11. The Panel may determine that the circumstances of the dispute warrant a preliminary conference. The matters that may be considered at a preliminary conference include:

- a) Format for the appeal (hearing by documentary evidence, oral hearing in-person, oral hearing by telephone conference, or a combination of these methods);
- b) Date and location of hearing;
- c) Timelines for exchange of documents;
- d) Clarification of issues in dispute;
- e) Clarification of evidence to be presented to the Panel;
- f) Order and procedure of hearing;
- g) Remedies being sought;
- h) Identification of witnesses; and
- i) Any other matter that may assist in expediting the appeal proceedings.

12. The Panel may delegate to its Chairperson or to one of its members the authority to deal with these preliminary matters.

### **Procedure for the Appeal:**

13. Where the Panel has determined that the appeal shall be held by way of oral hearing, the Panel shall govern the hearing by such procedures as it deems appropriate in the circumstances, provided that:

- a) The hearing shall be held within 21 days of the Panel's appointment.
- b) A quorum shall be all 3 Panel members.
- c) Decisions shall be by majority vote, where the Chairperson carries a vote.
- d) If the decision of the Panel may affect another party to the extent that the other party could have recourse to an appeal under this policy, that party shall become a party to the appeal in question.

- e) The athlete/coach, CSI Calgary and any affected parties shall be given 10 days written notice of the date, time and place of the appeal hearing.
- f) The Panel may direct that any other individual participates in the appeal.
- g) In the event that one of the Panel's members is unable or unwilling to continue with the appeal, the matter will be concluded by the remaining two Panel members who shall make their decision unanimously.
- h) Unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties except in the presence of, or by copy to, the other parties.

**Procedure for a Documentary Hearing:**

14. Where the Panel has determined that the appeal shall be held by way of documentary evidence, it shall govern the appeal by such procedures as it deems appropriate in the circumstances provided that:
- a) All parties are given an opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal.
  - b) The applicable principles and timelines of Section 13 are respected.

**Evidence That May be Considered:**

15. As a general rule, the Panel shall only consider that evidence that was before the original decision-maker. At its discretion, the Panel may hear new evidence that is material and that was not available at the time of the original decision.

**Appeal Decision:**

16. Within five (5) days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:
- a) To void or confirm the decision being appealed;
  - b) To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;
  - c) To refer the matter back to the initial decision-maker for a new decision; and
  - d) To determine how costs of the appeal shall be allocated, if at all.

17. A copy of this decision shall be provided to each of the parties and to the CSI Calgary President and CEO (or designate).

**Timelines:**

18. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Panel may direct that these timelines be abridged. If the circumstances of the dispute are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be extended.

19. Where there is a need to render a decision quickly, the Panel may issue a summary decision with reasons to follow, provided the written decision, with reasons, is rendered within five (5) days of concluding the appeal, or such other timeline as may be agreed to by the parties.

**Jurisdiction:**

20. The decision of the Panel shall be final and binding upon the parties, subject only the provisions of the CSI Calgary's policy on Alternate Dispute Resolution (ADR).

21. No action or legal proceeding shall be commenced against the CSI Calgary in respect of a dispute, unless the CSI Calgary has refused or failed to abide by the provisions for appeal of the dispute, as set out in this policy.