



Appeal Policy

Original version approved: August 2008	Policy No: 09-3
Current version approved: December 2022	Pages: 9
Date of next review: April 2024	

1. GOAL

- 1.1. This Policy provides a fair, affordable and expedient appeal process for handling appeals of Cycling Canada (CC) decisions.

2. PRINCIPLES

- 2.1. Any Individual who has been affected by 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 Sections 3.3, 6.2, and 6.4 of this Policy, has the right to appeal. For the avoidance of doubt, this Policy does not apply to appeals of 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.
- 2.2. All appeals must be filed in accordance with the provisions in this Policy. Except where otherwise agreed by the Parties and in accordance with the Canadian Sport Dispute Resolution Code, appeals may only be filed before the Sport Dispute Resolution Centre of Canada (SDRCC) after the procedures in this Policy have been exhausted.

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, or Athlete Assistance Program ("AAP") carding nominations, carding re-nominations, or carding withdrawal recommendations.
- 3.2. This Policy also applies to decisions arising from the Complaints & Discipline Policy or any other CC policy that designates this Policy as applicable.
- 3.3. For further clarity, this Policy will **NOT** apply to matters relating to:
 - a) Reported complaints that were managed by the Office of the Sport Integrity Commissioner (OSIC).
 - b) Matters of general application such as amendments to CC's By-laws.
 - c) AAP decisions that do not concern nomination or de-carding.
 - d) Policies and procedures, selection criteria, and quotas established by any organization external to CC.
 - e) Except as otherwise provided for in this Policy, decisions made by organizations other than CC, such as CC's Members, the Canadian Olympic Committee (COC), the Canadian Paralympic Committee (CPC), the International Olympic Committee (IOC), the International Paralympic Committee (IPC), the Union Cycliste Internationale (UCI) or any other governing body.

- f) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program, by the Canadian Centre for Ethics in Sport, the UCI or any other anti-doping organization with authority.
- g) Issues of operational structure, staffing, employment or allocation of volunteer leadership opportunities.
- h) Issues of budgeting or budget implementation.
- i) Disputes over competition rules.
- j) Commercial or contractual matters for which another dispute resolution process exists under a contract or applicable law.

4. DEFINITIONS

- 4.1. **Affected Party:** Any Individual or entity, as determined by the Independent Case Manager, who may be affected by a decision rendered under this Policy and who may have recourse to an appeal in their own right under this Policy.
- 4.2. **Appellant:** the individual who initiates the appeal.
- 4.3. **Days:** Calendar days, including weekends and holidays.
- 4.4. **Independent Case Manager:** An external organization or individual appointed by Cycling Canada to receive and administer appeals under this Policy. The Independent Case Manager shall not be a Member of, or affiliated with, Cycling Canada or affiliated with a Member, and not be in real or perceived conflict of interest or have a direct relationship with any of the Parties
- 4.5. **Individual:** Refers to Participants as defined in the By-laws of Cycling Canada and, , to the extent not already included in the definition of Participant, all people employed by, contracted by, or engaged in activities with Cycling Canada including, but not limited to, employees, contractors, Athletes, Athlete Support Personnel, coaches, instructors, officials, judges, managers, administrators, parents or guardians, spectators, or directors or officers.
- 4.6. **Member:** The Members of Cycling Canada are the provincial and territorial associations recognized by the Board which have met the prescribed financial and administrative obligations, as indicated in the Cycling Canada By-laws.
- 4.7. **Parties:** the Appellant, Respondent to the appeal, as well as any Affected Party
- 4.8. **Respondent:** the body or organization whose decision is being appealed, or the Individual who was the subject of a decision that is being appealed.
- 4.9. **Statement:** The written response submitted by the Respondent.
- 4.10. **SDRCC:** *Sport Dispute Resolution Centre of Canada*, an independent, alternative dispute resolution centre for all participants in the Canadian sport system at the national level
- 4.11. **Tribunal:** the arbitrator or arbitrators selected by the Independent Case Manager to conduct the Hearing and render a decision in the matter.

5. POLICY STATEMENT

- 5.1. CC is committed to conducting appeals by applying a timely, transparent, affordable, and unbiased process as outlined in this Policy.
- 5.2. CC is committed to appointing an Independent Case Manager to oversee this Policy on an ongoing basis

6. PROVISIONS

- 6.1. Whenever possible, all Individuals are encouraged to seek an amicable settlement of disputes through open and frank discussion prior to submitting a formal appeal.
- 6.2. The following deadlines apply to filing appeals pursuant to this Policy. However, an Individual who wishes to initiate an appeal beyond the deadlines stated below may only do so if exceptional circumstances prevented them from filing their appeal within the applicable deadline. Any such Individual 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 fourteen (14) day period will be at the sole discretion of the Independent Case Manager and is not subject to appeal.

Appeal Process Step (Policy Subsection)	Maximum Duration	Cumulative Days
Filing Notice of Appeal (6.3)	7 days from written announcement of the decision being appealed	7
Screening of Appeal (6.4)	4 days from receipt of Notice of Appeal	11
Statement by Respondent (6.5)	4 days from receipt of Notice of Appeal transmitted to Respondent	15
Early Resolution Facilitation (6.6)	No set timeline but must be completed prior to Conduct of Hearing.	14 (max.)
Appointment of Tribunal (6.7)	4 days from Screening of Appeal decision that the appeal may proceed to a Hearing.	15
Conduct of Hearing (6.8)	7 days from appointment of Tribunal	22
Release of Decision (6.9)	7 days from conclusion of a Hearing	29
<i>SDRCC Request for Review (by either party) (6.10)</i>	<i>15 days from release of Decision. The SDRCC process is not part of this policy.</i>	<i>N/A</i>

6.3. **Filing Notice of Appeal**

- 6.3.1. Individuals who wish to appeal a decision must submit a written Notice of Appeal using the form provided in Appendix A to the Independent Case Manager:

Brian Ward

safesport_wwdrs@primus.ca

- 6.3.2. 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. **Screening of Appeal**

- 6.4.1. Within the timeline described in Section 6.2, the Independent Case Manager shall screen the appeal to determine if the appeal falls 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 it is alleged that the Respondent has:
- Made a decision for which it did not have authority or jurisdiction as set out in governing documents.
 - Failed to follow procedures as laid out in CC's By-laws or approved policies.
 - 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 considered irrelevant information in making the decision.
 - e) Exercised its discretion for an improper purpose.
 - f) Made a decision that was grossly unreasonable.
- 6.4.2. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 6.4.1 of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.
- 6.4.3. Upon receiving the Notice of Appeal, the Independent Case Manager will contact the Appellant if the notice is incomplete or to seek clarifications.
- 6.4.4. If the appeal is denied by the Independent Case Manager pursuant to Section 6.4.1, the Appellant will be notified in writing, within the appropriate timeline for Screening the Appeal, of this decision and its reasons. The Independent Case Manager's decision is subject to appeal to the SDRCC.

6.5. Statement by Respondent

- 6.5.1. If the Appeal is deemed admissible, the Independent 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 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.
 - e) The name and contact information of the Respondent's representative, if applicable.
 - f) A summary of facts relating to the matter.
 - g) All the evidence supporting the Respondent's position including a list of witnesses and the evidence to which they will testify, if applicable.
 - h) Solutions proposed by the Respondent.
 - i) Any potential Interested Parties and their contact information, if applicable.
 - j) The name and contact information of the Respondent's representative, if applicable.
- 6.5.2. The written Statement must be returned to the Independent Case Manager within the appropriate timeline. The Independent Case Manager must forward a copy of the written Statement to the Appellant without delay after receipt.
- 6.5.3. If the Respondent submits an incomplete Statement or fails to submit the Statement in writing within the time limit, then the Independent 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.

6.6. Early Resolution Facilitation

- 6.6.1. Before conducting a Hearing, the Independent Case Manager will invite the Appellant and the Respondent to resolve the dispute using the early resolution facilitation services

offered by SDRCC.

- 6.6.2. 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 Independent Case Manager will document the outcome of the early resolution facilitation process and provide it in writing to both Parties.
- 6.6.3. If the matter of the appeal is time sensitive, the Independent 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 Independent Case Manager will take the appeal to the next step in the Cycling Canada process (6.7) or directly to SDRCC (6.10) for final resolution.
- 6.6.4. No evidence from the early resolution facilitation discussions is admissible in the subsequent Hearing process, whether before the Tribunal or the SDRCC.

6.7. Appointment of Tribunal

- 6.7.1. Within the appropriate timelines, the Independent Case Manager will appoint a Tribunal consisting of a single Arbitrator to hear the appeal. In extraordinary circumstances, and at the discretion of the Independent Case Manager, a Tribunal of three persons may be appointed to hear and decide a case. In this event, the Independent Case Manager will appoint one of the Tribunal's members to serve as the Chair.
- 6.7.2. When appointing the Tribunal, the Independent Case 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. Although not a requirement, the Independent Case Manager should attempt to appoint individuals to the appeal panel who have a legal background and who understand the sport of cycling. 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.

6.8. Determination of Affected Parties

- 6.8.1. In order to confirm the identification of any Affected Parties, the Independent Case Manager will engage CC. The Independent Case Manager may determine whether a Party is an Affected Party in their sole discretion.

6.9. Conduct of Hearing

- 6.9.1. **Hearing Format:** The Independent Case Manager will determine the format of the hearing, which may involve an oral hearing in person, an oral hearing by telephone or videoconference, a hearing based on written submissions or a combination of these methods. The Hearing will be governed by the procedures that the Independent 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 the Tribunal and all Parties in advance of the hearing in accordance with the timeline set by the Tribunal.

- d) The Parties may be accompanied by a representative, adviser, legal counsel, translator or transcription services at their own expense.
- e) The Tribunal may request that any other individual participate and give evidence at the hearing.
- f) The Tribunal may exclude any evidence filed by the Parties that is unduly repetitious or otherwise an abuse of process. The Tribunal shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to any 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) 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 Affected Party to the appeal in question, will be permitted to make submission and file evidence and will be bound by its outcome.
- i) The hearing will be conducted in the official language of choice of the Appellant.
- j) 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.
- k) In fulfilling its duties, the Tribunal may obtain independent advice.

6.9.2. **Hearing Confidentiality:** The appeal process is confidential involving only the Parties, the Independent 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. Any failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Individual(s) in accordance with CC's relevant and applicable policies.

6.9.3. **Hearing Decision:** 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, in whole or in part, and refer the matter back to the initial decision-maker for a new decision; or
- c) To uphold the appeal, in whole or in part, 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.

6.9.4. **Hearing Costs:** 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 consider the outcome of the appeal, the conduct of the Parties and their respective financial resources.

6.10. **Release of Decision:**

6.10.1. 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.

- 6.10.2. Subject to Section 6.10.3 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, CC shall publish the outcome of the appeal on its website. Publication shall be limited to, where applicable, the provision(s) of any relevant policies that have been violated, the name(s) of the Individual(s) involved, the sanction(s) or order imposed, if any. Identifying information regarding Minors or Vulnerable Participants will never be published by CC.
- 6.10.3. If the appeal panel dismisses the appeal, the decision may only be published, as provided for in Section 6.10.2, with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the Parties, the Independent Case Manager and CC 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*.
- 6.10.4. Where necessary in order to implement a decision, other individuals or organizations, including but not limited to, Members, may be advised of the outcome of any decisions rendered in accordance with this *Policy*.
- 6.10.5. Any decision rendered pursuant to this *Policy* shall apply automatically to and must be respected by CC and its Members.
- 6.10.6. Records of all decisions will be maintained by CC in accordance with applicable privacy legislation.

6.11. SDRCC Appeal Process:

- 6.11.1. The decision of the Tribunal will be final and binding upon the Parties and upon any impacted individuals subject to the right of any Party to appeal the decision to the SDRCC pursuant to the Canadian Sport Dispute Resolution Code: [File an Appeal | Tribunal | SDRCC \(crdsc-sdrcc.ca\)](#)

6.12. Final and Binding

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

6.13. Privacy

- 6.13.1. The collection, use and disclosure of any personal information pursuant to this Policy will be conducted in accordance with applicable privacy legislation.
- 6.13.2. CC or any of its delegates pursuant to this Policy (i.e., Independent Case Manager, Tribunal), shall comply with applicable privacy legislation in the performance of their services under this Policy.

7. REVIEW AND APPROVAL

- 7.1. Original policy development leads: Kevin Baldwin, Bill Kinash, Greg Mathieu
- 7.2. Current policy development leads: Adam Klevinas, Kelly Murray, Mathieu Boucher, Geordie Moss



APPENDIX A – APPEAL SUBMISSION FORM

Individuals who wish to formally appeal a Cycling Canada decision, under the terms of Cycling Canada's Appeal Policy, must submit the following information to the Independent Case Manager, Brian Ward, at this email address: safesport_wwdrs@primus.ca

Appellant's Name: _____ Email Address: _____

Telephone Number: _____

Address: _____

Appellant's Representative (if applicable) _____

Email Address: _____ Telephone Number: _____

Address: _____

Official Language in which the Appellant wished to communicate: _____

Name of the Respondent: _____

Text of the decision and/or summary of notification of the decision, as applicable: _____

Detailed reason(s) for the appeal: _____

Grounds for the appeal: _____

Summary of the evidence to support these reason(s) and grounds for the appeal: _____

The suggested remedy or remedies requested: _____
