

## E-13 POLICY: Appeal Policy

### 1. PREAMBLE

- 1.1. The SSBC recognizes the right of any member to appeal the decision of SSBC and hereby provides for an appropriate process to resolve disputes that could arise from time to time from these decisions,
- 1.2. The purpose of this appeal policy is to allow disputes between SSBC and its members to be dealt with fairly, expeditiously and affordably with SSBC, without requiring recourse to formal legal and court-like procedures.
- 1.3. In this policy, unless context otherwise requires, words in singular include the plural and vice versa: words importing gender include all genders.

### 2. DEFINITIONS

**Appeal Panel:** Refers to the appeal panel established as provided in section 8,

**Appellant** (also referred to as “Party”): Refers to a Member appealing a decision;

**Case Manager:** Refers to an impartial individual nominated by SSBC to oversee only the application of the process described in this policy;

**Days:** Means total days, irrespective of weekends or holidays;

**Interested Party** (also referred to as “Party”): Refers to an individual who can be directly affected or impacted by a decision of the Appeal Panel and is accepted as such by the parties or is accepted or named as such by the Appeal Panel;

**Member:** refers to all categories of Members in SSBC, as well as to all individuals engaged in activities with or employed by SSBC, including, but not limited to, athletes, coaches, officials volunteers, directors, officers, medical and paramedical personnel, administrators and employees (including contract personnel);

**Notice of the Appeal:** Refers to a notice filed by the Appellant through the form attached ;

**Respondent:** refers to the body whose decision is being appealed;

**Statement:** Refers to the written response submitted by the Respondent through the form attached;

**Working Days:** Means total days, excluding weekends and holidays.

### 3. SCOPE OF APPEAL

- 3.1. Any member of SSBC in good standing who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any entity or individual who has been delegated authority to make decisions on behalf of the Board of Directors, shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 4 of this policy. Such decisions may include, but are not

limited to, harassment, selection and discipline, but shall exclude employment and contract matters unless specifically included.

- 3.2. Without limiting the scope of section 4, this appeal will not apply to a decision relating to:
  - 3.2.1. Disciplinary matters arising during events organized by entities other than SSBC, which are dealt with by the policies of these other entities, provided that they have an appeal policy in place;
  - 3.2.2. Criminal offences for which the Appellant is seeking a criminal conviction;
  - 3.2.3. Employment and contract matters unless specifically included.
- 3.3. This Policy shall not apply to matters relating to the rules of speed skating, which may not be appealed.

#### 4. GROUNDS FOR AN APPEAL

- 4.1. An appellant cannot challenge a decision only on the grounds that it is not favourable to them. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the Respondent:
  - 4.1.1. Making a decision for which it did not have authority or jurisdiction as set out in governing documents;
  - 4.1.2. Failing to follow procedures as laid out in the bylaws or approved policies of SSBC;
  - 4.1.3. Making a decision which 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 and/or that the decision was made on the basis of, or significantly influenced by, factors unrelated to the merits of the matter;
  - 4.1.4. Exercising its discretion for an improper purpose and/or
  - 4.1.5. Making a decision that was unreasonable or unfair.

#### 5. TIMING

- 5.1. Members who wish to appeal a decision will have seven (7) days from the date on which they received notice of the decision, to submit the Notice of Appeal to the President of SSBC or a designate,
- 5.2. Any party wishing to initiate an appeal beyond the seven (7) day period must provide a written request stating reasons for an exemption to the requirement of subsection 5.1,
- 5.3. The decision to allow or refuse the exemption as provided in subsection 5.2 will be at the discretion of the Appeal Panel,
- 5.4. Other timelines provided for in this section can be amended by the President or the Appeal Panel when justified by the circumstances.

## 6. SCREENING OF APPEAL

- 6.1. Within three (3) days of receiving the notice of appeal, the President of SSBC, or a designate, shall decide whether or not the appeal is based on one or more of the categories of possible errors by the Respondent as set out in Section 4. The President of SSBC, or designate shall not determine if the error has been made, only if the appeal is based on such allegation of error by the Respondent.
- 6.2. If the appeal is denied on the basis of insufficient grounds, the Appellant shall be notified of the decision in writing, giving reasons. This decision is at the sole discretion of the President of SSBC, or a designate, and may not be appealed.

## 7. IDENTIFICATION OF INTERESTED PARTIES

- 7.1. Upon receipt of the Statement of the Respondent, the Case Manager must notify potential Interested Parties of the existence of the appeal and invite them to take part in the proceedings.
- 7.2. The Interested Parties thus invited become Parties to the proceedings and therefore have the same rights as the Appellant and the Respondent to make submissions before the Appeal Panel with respect to the issues in dispute.

## 8. APPEAL PANEL

- 8.1. If the President of SSBC, or a designate, is satisfied that there are sufficient grounds for an appeal, within seven (7) days of having received the original notice of appeal, the President of SSBC, or a designate, shall establish an Appeal Panel (the "Panel") as follows:
- 8.2. the Panel shall be comprised of three (3) 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;
  - 8.2.1. at least one (1) of the Panel's members may be from among the Appellant's peers;
  - 8.2.2. in the event a peer is appointed to the panel, the Appellant shall be given the opportunity to recommend such person, provided that member satisfies criterion (a) above;
- 8.3. should the Appellant not recommend the Panel member as set out in (c) above within three (3) days, the President of SSBC, or a designate, shall appoint the peer member of the Panel.

## 9. PRELIMINARY CONFERENCE

- 9.1. Within no more than five (5) working days of the Appeal Panel being established, the Panel will hold a preliminary conference to consider various preliminary issues, such as, but not limited to the following:
  - 9.1.1. the matters which may be considered at a preliminary conference include date and location of hearing, timelines for exchange of documents, format for the

appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.

- 9.2. The preliminary conference may be held by conference call, video conferencing or in person. The decision is the sole discretion of the Chairperson and may not be appealed.
- 9.3. The participants in the preliminary conference shall be all Parties, their representatives, if any, the Case manager and the Appeal Panel Members.
- 9.4. The chairperson and the Case Manager shall arrange the preliminary conference and its precise date and time in consultation with the participants.
- 9.5. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters.
- 9.6. The Case Manager shall act as secretary of the preliminary conference and prepare a written confirmation of the appeal procedures established during that preliminary conference. Within two (2) working days after the conclusion of the preliminary conference, the Case Manager will communicate to all Parties the written confirmation as approved by the Appeal Panel.

## 10. PROCEDURE FOR THE APPEAL HEARING

- 10.1. The Appellant has the burden of proof, on a balance of probabilities, that the decision being appealed is the result of a procedural error as described in section 4.
- 10.2. The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:
  - 10.2.1. the appeal hearing shall be held within twenty one (21) days of the Panel's appointment;
  - 10.2.2. the Appellant, Respondent and Affected Parties shall be given fourteen (14) days written notice of the date, time and place of the appeal hearing;
  - 10.2.3. a quorum shall be all three (3) Panel members;
  - 10.2.4. decisions shall be by majority vote, where the Chairperson carries a vote;
  - 10.2.5. if the matter under appeal relates to team selection, any person potentially affected by the decision of the Panel shall become a party to the appeal;
  - 10.2.6. the Panel may direct that any other individual participate in the appeal.
- 10.3. 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 (2) Panel members. Should the Chair of the Panel be unable or unwilling to continue with the appeal, the remaining Panel members shall appoint a Chair from among themselves. If they are unable to select a Chair, the President shall appoint one of the Panel members to act as Chair. In the event there is a tie in making a final decision in the matter being appealed, the Chair shall carry the deciding vote.
- 10.4. any of the Parties may be accompanied by a representative or advisor, including legal counsel;
- 10.5. copies of any written documents which any of the Parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least five (5) regular days in advance of the Hearing;
- 10.6. Unless otherwise agreed by the Parties, there shall be no communication between Panel members and Parties in regards to the appeal except in the presence of, or by written copy to, the other Parties.

- 10.7. Appeals will be conducted by conference call, video conference or in person as deemed appropriate by the Chairperson.

## 11. APPEAL DECISION

- 11.1. Within seven (7) regular days of the conclusion of 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:
  - 11.1.1. to void or confirm the decision being appealed;
  - 11.1.2. 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;
  - 11.1.3. to refer the matter back to the initial decision-maker for a new decision; and
  - 11.1.4. to determine how costs of the appeal shall be allocated, if at all.
- 11.2. A copy of this decision shall be provided to each of the Parties and to the President and Executive Director.

## 12. TIMELINES

- 12.1. 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 disputes are such that the appeal cannot be concluded within the timelines dictated in this Policy, the Panel may direct that these timelines be extended.

## 13. DOCUMENTARY APPEAL

- 13.1. Any Party to the appeal may request that the Panel conduct the appeal by way of documentary evidence. The Panel may seek agreement from the other parties to proceed in this fashion. If agreement is not forthcoming, the Panel shall decide whether the appeal shall proceed by way of documentary evidence or in-person hearing.

## 14. LIABILITY DISCLAIMER

- 14.1. Except in cases of willful misconduct, the Appeal Panel and the Appeal Officer will bear no liability in respect of either of the Parties for any act or omission in connection with the resolution of a dispute in accordance with the policies of SSBC.
- 14.2. The Appeal Officer and the members of the Appeal Panel cannot be called as witnesses during an appeal or before any court of competent jurisdiction, including with respect to costs.
- 14.3. No action or proceeding may be brought against SSBC or its members in respect of a dispute, unless SSBC is failing or refusing to comply with the provisions with regards to appeals or dispute resolution as provided in the policies of SSBC.

## E-14 POLICY: Arbitration Policy

1. All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in these Policies and Procedures.
2. Any final decision made by the Appeal Panel that may lead to irreversible consequences for one of the Parties may be submitted by way of application to the Sport Dispute Resolution Centre of Canada (SRDCC), which will resolve the dispute definitively in accordance with the Canadian Sport Dispute Resolution Code, as amended from time to time by the (SRDCC).
3. Should a matter be referred to arbitration or mediation, all Parties to the original appeal shall be Parties to the arbitration or mediation.
4. The totality of costs of the SDRCC dispute resolution services will be borne by the person requesting such services, unless otherwise agreed upon by other parties.
5. The Parties to arbitration shall enter into a formal Arbitration Agreement and the decision of any arbitration shall be final and binding.

Conduct is considered by SSBC to be:

