



Canadian Fencing Federation

Policy on Selection Appeals

Preamble

The Canadian Fencing Federation (hereafter referred to as the CFF) is committed to providing a sport environment in which athletes in the sport of fencing can compete to the best of their abilities and at the appropriate levels in national and international competitions, and thereby can rely on the CFF to enact a fair and equitable selection process for all national and international competitions, teams and funding opportunities.

Purpose

1. The purpose of this Policy is to enable selection appeals involving High Performance Program Athletes to be dealt with fairly, expeditiously and affordably within the CFF and without recourse to external legal procedures.

Scope and Applicability

2. This policy applies to all the CFF participants including all Provincial/Territorial federations, associations or branches, licence-holders, High Performance Program athletes, certified and recognized coaches, certified and recognized officials, volunteers, members of the Board of Directors of the CFF, officers, committee members, paid staff members, voluntary staff members and other appointed representatives of the CFF (the “CFF Participants”).

3. This Policy on Selection Appeals supersedes any previous Selection Appeals policies of the CFF, effective the date of approval of the policy by the Board of Directors.

4. This Policy on Selection Appeals may be considered part of the Code of Conduct to which all CFF Participants are expected to adhere. The Policy on Selection Appeals is also considered a core document of the CFF’s policy framework and is therefore subject to change as directed by the CFF Board of Directors in order to protect the interests of the CFF and CFF Participants.

5. This Policy on Selection Appeals refers to, and supports, the CFF's Dispute Resolution Policy and Procedures.

Definitions

6. The following definitions are presented in the context of the CFF Policy on Selection Appeals:

- a. Appellant: The party appealing a decision;
 - b. Days: Calendar days irrespective of intervening weekends or holidays;
 - c. Respondent: For the purpose of this policy, the Respondent is always the Canadian Fencing Federation;
 - d. Affected Party: A person who is not the appellant or the respondent, but who could be impacted by the outcome of an appeal;
 - e. Case Administrator: The CFF official appointed to oversee the management and administration of an appeal;
 - f. Appeal Panel: The individual or group of individuals appointed by the Board of Directors of the CFF to adjudicate an appeal; and
 - g. Canadian Fencing High Performance Program Athlete: A person who is a valid CFF license holder, who has been invited to the High Performance Program as an athlete and who has paid the High Performance Program fee for the season.
7. Where needed in this policy, a male gender word includes the female gender and vice versa; and plural nouns include singular nouns and vice versa.

Policy Direction

8. Any CFF High Performance Program Athlete has the right to appeal a decision of the CFF Board of Directors, any committee of the CFF, or any body or individual who has been delegated the authority to make decisions on behalf of the CFF, provided there are sufficient grounds for the appeal as set out in Section 9 of this Policy, subject to the limits in Section 10 of this Policy.

9. This Policy will only apply to decisions made by the CFF relating to eligibility, selection, carding or discipline. Notwithstanding the constraints, restraints and limitations contained in this Policy, all appeals related to the Athlete Assistance Program nomination or de-carding must

follow the Policies and Procedures of Sport Canada's Athlete Assistance Program (AAP) Section as contained at: <http://www.pch.gc.ca/pgm/sc/pol/athl/114-eng.cfm>.

10. This Policy will not apply to decisions relating to:
 - a. Infractions for doping offences which are dealt with pursuant to the Canadian Anti-Doping Program or any successor policy;
 - b. The rules of fencing or disputes over competition rules;
 - c. Policies and procedures established by entities other than the CFF;
 - d. Issues of operational structure, staffing, employment or volunteer opportunities;
 - e. Commercial matters;
 - f. Issues of budgeting and budget implementation;
 - g. Discipline matters and decisions arising during events organized by entities other than the CFF, which are dealt with pursuant to the policies of these other entities; and
 - h. Disputes arising within competitions which have their own appeal procedure.

11. A CFF High Performance Program Athlete who wishes to appeal a decision will have seven (7) days from the date on which they received notice of a selection decision, to submit their appeal in writing, using the form attached to this Policy at Appendix 1, addressed to the Head Office of the CFF, attention the President of the CFF, and must include the following information:
 - a. Notice of the intent to appeal;
 - b. Contact information of the Appellant, and, if the Appellant is a minor, the contact information of a representative of the Appellant;
 - c. Detailed reason(s) for the appeal;
 - d. Grounds for the appeal;
 - e. Name(s) of identified Affected Party(ies);
 - f. All evidence that supports the reasons and grounds for an appeal;
 - g. The remedy or remedies requested; and

- h. A payment of two hundred fifty dollars (\$250), which is non-refundable.

12. 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 at Section 11. The decision to allow, or not allow an appeal outside the 7-day period, will be at the sole discretion of the Case Administrator appointed by the CFF and may not be appealed.

Grounds for Appeal

13. Not every decision related to selection may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the actions of the Respondent in:

- a. Making a decision for which it did not have authority or jurisdiction as set out in the letters patent, by-laws, resolutions or approved policies of the CFF;
- b. Failing to follow procedures as laid out in the letters patent, by-laws, resolutions or approved policies of the CFF;
- 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 or that the decision was influenced by factors unrelated to the substance or merits of the decision;
- d. Failing to consider relevant information or taking into account irrelevant information in making the decision;
- e. Exercising its discretion for an improper purpose; and/or
- f. Making a decision that was grossly unreasonable.

14. The Appellant will bear the onus of proof in the appeal, and thus must be able to demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 13.

Case Administrator

15. The Executive Director will normally serve as the Case Administrator appointed to oversee the management and administration of appeals submitted in accordance with this Policy. In a case where the Executive Director has a real or perceived conflict of interest related to the appeal or the potential grounds for the appeal, the Board of Directors or the President of the CFF on behalf of the Board of Directors will appoint another individual to serve as Case Administrator.

16. The Case Administrator has an overall responsibility to ensure procedural fairness is respected at all times, and to implement this Policy in a timely manner. More specifically, the Case Administrator has a responsibility to:

- a. Determine if an appeal lies within the jurisdiction of this Policy;
- b. Determine if an appeal has been brought in a timely manner;
- c. Determine if an appeal has been brought on permissible grounds;
- d. Co-ordinate all administrative and procedural aspects of the appeal;
- e. Provide administrative assistance and logistical support to the Appeal Panel as required; and
- f. Provide any other service or support that may be necessary to ensure a fair and timely appeal proceeding.

Screening of Appeal

17. Upon receipt of the notice and grounds of an appeal and the required fee, the Case Administrator will review the appeal and will decide whether or not there are sufficient grounds for an appeal. If the Case Administrator is satisfied that there are not sufficient grounds for an appeal, the Parties will be notified in writing, stating reasons. If the Case Administrator is satisfied that there are sufficient grounds for an appeal, then a hearing will take place in a timely fashion and in a manner intended to support all parties to an appeal in an unbiased manner. This decision is at the sole discretion of the Case Administrator and may not be appealed under this policy.

Appeal Panel

18. If the Case Administrator is satisfied that there are sufficient grounds for an appeal, the Board of Directors, or the Case Administrator when the Board of Directors is faced with a conflict of interest, will establish an Appeal Panel consisting of a single Adjudicator to hear the appeal. In extraordinary circumstance, the Board of Directors/Case Administrator may appoint an Appeal Panel of three persons. In this event, the Board of Directors/Case Administrator will appoint one of the Appeal Panel's members to serve as the Chair.

Procedure for the Hearing

19. The Appeal Panel will determine the format of the hearing, which may involve an oral hearing by telephone, a hearing based on written submissions or a combination of these methods. The hearing will be governed by the procedures that the Panel deem appropriate in the circumstances, provided that:

- a. The hearing will be held within the appropriate timeline determined by the Appeal Panel;
- 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 Appeal Panel consider will be provided to all Parties in advance of the hearing in accordance with the appropriate timeline;
- d. A representative or adviser, including legal counsel, may accompany any Party named in the appeal application;
- e. The Appeal Panel and either Party may request that any other individual participate and give evidence at the hearing;
- f. 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 Selection Appeal Policy, that party will become a party to the appeal in question and will be bound by its outcome (“Affected Party”);
- g. The hearing will be conducted in the official language of choice of the Appellant, in accordance with the CFF’s Official Languages Policy; and
- h. In the situation where an Appeal Panel consisting of three persons conducts the hearing, a quorum will be all three and decisions will be by majority vote.

Appeal Decision

20. Within seven (7) days of concluding the appeal, the Appeal Panel will issue its written decision, with reasons. 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; or
- b. Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
- c. To uphold the appeal 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 reasons of lack of clear procedures, lack of time, or lack of neutrality.

21. The decision will be considered a matter of public record unless determined otherwise by the Appeal Panel. A copy of this decision will be provided to the Parties and to the CFF. Where time is of the essence, the Appeal Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided the written decision including reasons is rendered within appropriate timelines.

22. The appeal process may be declared confidential by the Appeal Panel, only if the situation requires it, and must follow the terms and conditions set forth by the Appeal Panel.

Final and Binding Decision

23. The decision of the Appeal Panel will be binding on all parties, including the Appellant and any Affected Party, and on all CFF High Performance Program Athletes, subject to the right of any Party to seek a review of the decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC) as amended from time to time, and in accordance with the CFF Dispute Resolution Policy and Procedures.

24. No action or legal proceeding will be commenced against the CFF or its High Performance Program Athletes with respect to a dispute, unless the CFF has refused or failed to abide by the provisions for appeal and/or dispute resolution as set out in the CFF's policies framework.

Review and Approval

25. This policy is to be approved by the Board of Directors of the CFF and shall be reviewed on a regular basis, as and when required.

Recommended for Approval:



August 23, 2018

Brad Goldie
President, Canadian Fencing Federation

Date

Approved by the Board of Directors, August 23, 2018

REQUEST FOR APPEAL FORM

Please ensure you complete all sections of the form. The appeal cannot proceed until all information has been submitted. Incomplete forms will be rejected by the CFF until such time as they have been correctly and completely submitted.

Send your completed form, supporting documents and payment to the CFF Head Office. Failure to submit the materials will result in delays in processing or a rejection of the appeal for administrative reasons.

This form may be reproduced locally.

1. IDENTIFICATION OF THE PARTIES

Appellant

Name: _____

Phone number: _____

E-mail address: _____

Authorized representative *(required if the appellant is considered a minor in his/her province of residence)*

Name: _____

Phone number: _____

E-mail address: _____

Affected Party(ies)

Name: _____

Phone number: _____

E-mail address: _____

2. APPEAL

Describe the decision being appealed with the facts and your arguments.

Date of the decision being appealed.

Describe the solution being sought.

3. LANGUAGE

Select your preferred language for the proceedings. English Français

4. EXHIBITS & EVIDENCE

List all the supporting documents you are submitting for your appeal.

Attach the section of a policy/procedure you believe was not respected as part of the Exhibits and Evidence.

5. DECLARATION

To file an appeal, it must be signed by the Appellant or his/her authorized representative. If the Appellant is considered a minor in his/her province of residence, the Appeal must be signed by his/her parent or legal guardian:

I, the undersigned, file this Appeal under the provisions of the Canadian Fencing Federation's Policy on Selection Appeals and I agree to pay the applicable filing fee of \$250.00 to the CFF.

I, the undersigned, recognize that it is my responsibility to read and be aware of the CFF's applicable rules and I agree in writing to observe them.

I, the undersigned, understand and accept that the decisions rendered by the Appeal Panel are final and binding and may be subject to a review by the Sport Dispute Resolution Centre of Canada (SDRCC) at the request of any Party.

Name: _____

Signature: _____

Date: _____