



## **Appeal Policy**

### **POLICY STATEMENT:**

- 1) Ski Jumping Canada (SJC) recognizes the right of any Member to appeal the decisions of SJC and hereby provides for an appropriate process for resolving disputes that could arise from time to time from such decisions of SJC.
- 2) The purpose of this appeal policy is to enable disputes with Members to be dealt with fairly, expeditiously and affordably within SJC, without having to have recourse to formal legal and court-like procedures.

### **Definitions**

- 3) The following terms have the following meanings in this Policy:
  - a) Appellant: Refers to a Member appealing a decision of SJC;
  - b) Arbitration: Refers to the arbitration process.
  - c) Case Manager: Refers to the individual appointed by the Independent Third Party to manage the case or by the Chair or Co-chair of SJC in the event of selection or nomination appeals
  - d) Days: Means total days, irrespective of weekends or holidays;
  - e) Independent Third Party: Refers to the service provider who is appointed by SJC to administer the Complaint, Discipline and Appeal policies.
  - f) Mediation: nonbinding intervention between parties to promote resolution of a grievance, reconciliation, settlement, or compromise;
  - g) Member: Refers to all categories of members in SJC, as well as to all individuals engaged in activities with or employed by SJC, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators, provincial sport organizations, affiliated clubs and contractors including contract personnel;
  - h) Panel: Refers to the appeal panel established as provided by Section “Appeal Panel”;
  - i) Respondent: Refers to the body, person or persons whose decision is being appealed;
  - j) Working Days: Means total days, excluding weekends and holidays;
  - k) Written Statement: Refers to the response submitted by the Respondent(s).



### **Appeal Policy**

- 4) Any Member of SJC who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of anybody or individual who has been delegated authority to make decisions on behalf of SJC or its Board of Directors, will have the right to appeal that decision, provided there are sufficient grounds for the appeal, as set out in Section “Preliminary Conference”;
- 5) For any decision related to Selection or Nomination excluding any items in Paragraph 6, below, the Independent Third Party will refer the matter to the Chair or Co-Chair of SJC, who will address the appeal in accordance with this Policy. SJC will ensure that the case manager and any Panel appointed has no conflict of interest.
  - a) SJC, when administering the appeal policy for Selection and Nomination purposes, will not be required to solicit external case managers or discipline panels. SJC may appoint individuals within SJC who are not in a conflict-of-interest scenario to fulfill the requirements of this Appeal policy in the role of Case Manager and Appeal Panel.
- 6) Without limiting the scope of Paragraph 4, this appeal policy will not apply to decisions relating to:
  - a) Matters of general application such as amendments to SJC by-laws
  - b) Employment/contractual matters or matters of operational structure or staffing or volunteer leadership opportunities
  - c) Infractions for doping offenses, which are dealt with pursuant to the Canadian Anti-Doping Program by the Canadian Centre for Ethics in Sport, FIS or any other AntiDoping organization with authority to pursue a doping offence
  - d) The rules of the sport or technical rules of SJC, as set out in the FIS Ski Jumping documents at [fis-ski.com](http://fis-ski.com)
  - e) Nomination and selection criteria, quotas, policies, and procedures established by entities other than SJC or its Member Organizations.
  - f) Selection criteria, quotas, policies, and procedures established by SJC
  - g) Volunteer/coach appointments and the withdrawal or termination of those appointments
  - h) Budgeting and budget implementation
  - i) SJC’s operational structure and committee appointments
  - j) Decisions or discipline arising within the business, activities, or events organized by entities other than SJC (appeals of these decisions shall be dealt with pursuant



### **Appeal Policy**

to the policies of those other entities unless requested and accepted by the organization at its sole discretion)

- k) Commercial or contractual matters for which another dispute resolution process exists under the provisions of the applicable contract or applicable law
- l) Decisions made under this Policy
- m) Decisions made by the governing body for Safe Sport in Canada
- n) Criminal offences for which the Appellant(s) is/are seeking a criminal conviction;

### **Timing for Appeal**

- 7) Members who wish to appeal a decision will have **ten** (10) days from the date they received notice of the decision, to submit their Appeal to the Independent Third Party;
- 8) Any Member wishing to submit an Appeal beyond the 10-day period must provide a written request stating reasons for an exemption. The decision to allow or deny an extension is at the sole discretion of the Independent Third Party. This decision may not be appealed.
- 9) A Request for Appeal to the Independent Third Party which includes the following:
  - a) Notice of the intention to appeal
  - b) Contact information and status of the appellant
  - c) Name of the respondent and any affected parties, when known to the Appellant
  - d) Date the appellant was advised of the decision being appealed
  - e) A copy of the decision being appealed, or description of decision if written document is not available
  - f) Grounds for the appeal (see Grounds for Appeal, below)
  - g) Detailed reasons for the appeal
  - h) All evidence that supports these grounds
  - i) Requested remedy or remedies
  - j) An administration fee of five hundred dollars (\$500)

### **Written Statement**



### **Appeal Policy**

- 10) If the attempt to resolve the dispute through discussion between the parties does not succeed, the Case Manager will request a Written Statement by the Respondent(s) outlining the justification for the decision being appealed;
- 11) The Written Statement will contain:
  - a) A summary of the evidence that supports the Respondent(s)' case;
  - b) The list of witnesses to be called at the hearing and the summary of the evidence to be provided by them; and
  - c) Whether or not representative(s) will be present;
- 12) The Written Statement shall be forwarded to the Case Manager within five (5) working days from the date of receipt of the Case Manager's request, or such longer period as the Case Manager may specify;
- 13) The Case Manager must forward a copy of the Written Statement to the Appellant(s) without delay after receipt;
- 14) Should the Respondent(s) fail to submit the Written Statement within the time-limit provided by Paragraph 14, the Case Manager will initiate the establishment of the Panel without further delay and notify the parties of such.

### **Appeal Panel**

- 15) The Case Manager will initiate the establishment of a Panel as follows:
  - a) The Panel will be comprised of one individual, or in rare circumstances three individuals.
  - b) The Panel must have no significant relationship with the affected parties;
  - c) The Panel must have no involvement with the decision being appealed;
  - d) The Panel must be free from any actual or perceived bias or conflict of interest.

### **Grounds for Appeal**

- 16) An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, 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 SJC;



### **Appeal Policy**

- c) 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 or that the decision was made on the basis of, or significantly influenced by factors unrelated to the merits of the decision;
  - d) Exercising its discretion for an improper purpose;
  - e) Making a decision that was grossly unreasonable or unfair.
- 17) The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

### **Dispute Resolution**

- 18) Notwithstanding any other provision in this Appeal Policy, by agreement between the Parties, the internal appeal process may be bypassed, and the appeal may be heard directly before the SDRCC.
- 19) Upon receiving the notice of the appeal, the fee, and all other information (outlined in the 'Timing of Appeal' section of this Policy), the Parties may first attempt to resolve the appeal through Alternative Dispute Resolution.
- 20) Appeals resolved by Alternative Dispute Resolution will result in the administration fee being refunded to the Appellant.

### **Screening of Appeal**

- 21) Should the appeal not be resolved by using the Alternative Dispute Resolution Procedures, the Case Manager has the following responsibilities:
- a) Determine if the appeal falls under the scope of this Policy
  - b) Determine if the appeal was submitted in a timely manner
  - c) Decide whether there are sufficient grounds for the appeal
- 22) If the appeal is denied on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant



### **Appeal Policy**

will be notified, in writing, of the reasons for this decision. This decision may not be appealed.

- 23) If the Case Manager, in collaboration with SJC, accepts an appeal because it falls under the scope of this Policy, there are sufficient grounds for an appeal, and it was submitted in a timely manner, they will appoint an Appeal Panel which shall consist of a single person, to hear the appeal. In extraordinary circumstances, and at the discretion of the Independent Third Party, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair.
- 24) When appointing the Appeal Panel, the 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 ended), and who do not have any direct relationship with any of the Parties. Although not a strict requirement, attempts should be made to appoint individuals to the Appeal Panel who have a legal background and understand the sport of Ski Jumping.
- 25) An Appeal Panel who previously acted in this capacity for SJC is not necessarily in a conflict of interest.

### **Determination of Affected Parties**

- 26) In order to ensure the identification of any Affected Parties, the Case Manager will engage SJC. The Case Manager will determine whether a party is an Affected Party at their sole discretion.

### **Procedure for Appeal Hearing**

- 27) The Case Manager shall notify the Parties that the appeal will be heard. The Case Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.
- 28) If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
- 29) The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The



### **Appeal Policy**

hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:

- a) The hearing will be held within a timeline determined by the Case Manager
  - b) The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
  - c) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
  - d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
  - e) The Panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
  - f) The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
  - g) 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 a party to the appeal in question and will be bound by its outcome
  - h) The decision to uphold or reject the appeal will be by a majority vote of Panel members, except in the case where the panel consists of a single member.
- 30) In fulfilling its duties, the Panel may obtain independent advice.

### **Appeal Decision**

- 31) The Panel shall issue its decision, in writing and with reasons, within seven (7) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
- a) Reject the appeal and confirm the decision being appealed
  - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
  - c) Uphold the appeal and vary the decision





### **Appeal Policy**

- d) May refund the appeal administration fee if the appellant is successful in their appeal.
- 32) The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and SJC. The Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless the Panel orders that the decision, in whole or in part, determines the decision should remain private.
- 33) The Case Manager and/or Panel may direct that these timelines be revised.

### **Confidentiality**

- 34) The appeals process is confidential and involves only the Parties, Case Manager/Independent Third Party, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.
- 35) Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline in accordance with SJC's applicable policies.

### **Final and Binding**

- 36) The decision of the Panel will be binding on the Parties; subject to the right of any Party to seek a review of the Panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC).
- 37) No action or legal proceeding will be commenced against SJC, or Participants in respect of a dispute, unless SJC has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.