

Appeals Policy

DEFINITIONS

- **BCS** means the body duly incorporated under the name Bobsleigh CANADA Skeleton.
- **Participant** means (i) any recognized member of BCS per BCS's governing By-Laws, and (ii) any individual engaged in activities with or employed/contracted by BCS including but not limited to athletes, coaches, trainers, managers, officials, volunteers, administrators, employees, contractors, directors and officers.
- **BoD** means the Board of Directors of BCS.
- **CEO** means the Chief Executive Officer (also known as the Executive Director) of BCS or a substitute as appointed from time-to-time by the BCS BoD.
- **Appellant** refers to the Participant appealing a decision.
- **Respondent** refers to the individual or body whose decision is being appealed.
- **Parties** means all individuals and entities involved in an appeal.
- **ITP** means Independent Third Party, the individual who is external to BCS and who is retained by and acts on behalf of BCS in fulfilling various responsibilities outlined in this Appeals Policy and, as applicable, related policies. In fulfilling their responsibilities, the ITP cannot have any real or perceived conflict of interest or have a direct relationship with any of the Parties. The ITP supporting BCS and its Participants can be reached at laurie@ewcsport.com or <https://wkf.ms/47k4bfQ>.
- **Days** means days inclusive of weekends and holidays, as applicable.
- **Panel** means the Appeals Committee.

SCOPE of APPEAL

1. Any Participant who is directly affected by a decision of the CEO, BCS management, or other individual who has been given authority to make decisions in the execution of their responsibilities for BCS shall have the right to appeal that decision, provided the Participant (as Appellant) can evidence sufficient grounds for the appeal as set out in Paragraph 11 and 12 of this Appeals Policy.
2. This Appeals Policy applies to the following:
 - a. Appeal by an affected Participant of a decision made pursuant to BCS's Conflict of Interest Policy, Code of Conduct, and/or Discipline & Complaints Policy;
 - b. Appeal by an affected Athlete of a decision made regarding their BCS Athlete's Agreement;
 - c. Appeal by an affected Athlete of a decision made regarding: (i) their nomination or non-nomination by BCS to the Athlete Assistance Program (AAP), or (ii) their selection by BCS to a team representing Canada at international multisport event; and
 - d. Appeal by an affected Coach of a decision made regarding any sport-related matter.
3. This Appeals Policy does NOT apply to:

- a. Reported complaints that were managed by the Canadian Centre for Ethics in Sport (CCES), including but not limited to matters related to the Universal Code of Conduct to Prevent & Address Maltreatment in Sport (UCCMS);
- b. Matters outside BCS's direct jurisdiction, such as but not limited to, policies, criteria and decisions made by the Canadian Olympic Committee (COC), the International Olympic Committee (IOC), the International Bobsleigh & Skeleton Federation (IBSF), or any other agency, association, organization or tribunal external to BCS;
- c. Matters related to doping offences;
- d. Substance, content and establishment of BCS team selection criteria;
- e. Matters of governance such as amendments to BCS's By-Laws, or decisions of the BoD;
- f. Matters of BCS budgeting and budget implementation;
- g. Operational matters of BCS, such as but not limited to, organizational structure, staffing and committee appointments;
- h. Matters of BCS employment (other than those pertaining to BCS's Conflict of Interest Policy and Code of Conduct);
- i. Settlements negotiated pursuant to an Alternate Dispute Resolution (ADR) process.

NOTICE of APPEAL

- 4. A Participant who elects to be an Appellant by appealing a decision shall have fourteen (14) days from the date on which the Participant received notice of the decision to deliver a written Notice of Appeal to the ITP (laurie@ewcsport.com or <https://wkf.ms/47k4bfQ>).
- 5. Any Participant wishing to initiate an appeal beyond the 14-day period must provide a written request stating the reason for an exemption to the Timing requirement. Whether or not to allow a Notice of Appeal to be accepted outside the 14-day period shall be at the sole discretion of the ITP.
- 6. An Appellant's Notice of Appeal shall contain the following information:
 - a. Appellant's name and address;
 - b. Date the Appellant was advised of the subject decision;
 - c. Name of the BCS authority who communicated the decision to the Appellant;
 - d. Appellant's status with BCS;
 - e. Copy of decision being appealed or description of decision if written document is not available;
 - f. The basis for appeal upon which the Appellant is relying (i.e. the "Grounds for Appeal");
 - g. Requested remedy;
 - h. A \$250 Administration Fee, which will be refunded to the Appellant if their appeal is successful or forfeited if the appeal is denied.
- 7. The Notice of Appeal may be delivered to the ITP by email and the Fee by e-transfer.
- 8. For matters pertaining to Paragraph 2c(ii), if time is of the essence and the Appellant, the Respondent, and the ITP unanimously agree, the procedures of this Appeals Policy can be by-passed

in favour of the Appellant pursuing an appeal directly through the Sport Dispute Resolution Centre of Canada (SDRCC).

ALTERNATE DISPUTE RESOLUTION (ADR)

9. Upon the conditions of the Notice of Appeal section of this Appeals Policy being satisfied, the ITP may suggest, and the Parties may consent, to attempt to resolve the appeal under the Alternate Dispute Resolution process described in Appendix I: Alternate Dispute Resolution (ADR) – Appeals.
10. Appeals resolved by the subject ADR process will result in the Administration Fee being refunded to the Appellant.

GROUNDINGS for APPEAL

11. If the Alternate Dispute Resolution process is not pursued, the ITP shall decide whether there are sufficient grounds for the appeal to be heard under this Appeals Policy. A decision cannot be appealed on its facts alone or because a Participant does not like or agree with a decision. The ITP may ONLY declare that the Appellant has sufficient grounds for an appeal if the Appellant can satisfactorily evidence that the Respondent:
 - a. Made a decision that the Respondent did not have the authority or jurisdiction (as set out in BCS's governing documents);
 - b. Failed to follow the Respondent's own procedures (as set out in BCS's governing documents);
 - c. Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the Respondent appears not to have considered other views);
 - d. Made a decision that was grossly unreasonable.
12. Regarding Paragraph 11c, the Appellant must establish that they were prejudiced against because, had the Respondent been more fully informed, the decision would not reasonably have been made.

SCREENING of the APPEAL'S VALIDITY

13. Within ten (10) days of the conditions of the Notice of Appeal section of this Appeals Policy being satisfied, and if the Alternate Dispute Resolution process has not been pursued, the ITP will make the determination as to whether there are sufficient grounds for appeal per Paragraph 11 and 12.
14. If the ITP is of the view that the reasons stated in the Notice of Appeal do NOT, on their face, appear to set forth sufficient grounds for an appeal, the ITP shall so advise the Appellant and provide the Appellant with an opportunity to demonstrate that the Notice of Appeal and reasons for the appeal do, in fact, show sufficient grounds for an appeal. The Respondent shall also be advised by the ITP of this process and be given the opportunity to make submissions to the ITP on this issue as well.

15. If the ITP determines that what is contained in the Notice of Appeal and in the subsequent demonstration of the Appellant do NOT establish sufficient grounds for an appeal and, thus, the appeal cannot succeed, even if the allegations contained in the Notice of Appeal may be true, the appeal shall be dismissed by the ITP. The ITP shall notify the Appellant of this dismissal determination in writing, stating the reasons.
16. If the ITP determines that there are sufficient grounds for an appeal, the ITP shall proceed to conducting a Hearing by, first, establishing an Appeals Committee.
17. The ITP's determinations regarding Paragraph 13, 14, 15 and 16 shall be final and binding and NOT subject to further review or arbitration and may NOT be appealed.

APPEALS COMMITTEE

18. Within seven (7) days of having determined that there are sufficient grounds for an appeal to be heard, the ITP shall have established an Appeals Committee (the "Panel").
19. The Panel shall be formed as follows:
 - a. The Panel shall be comprised of three (3) people as follows:
 - i. one appointed by the BoD from the Governance & Risk Management Committee;
 - ii. one appointed by the BoD from the Nominations & Human Resources Committee;
 - iii. one appointed by the Appellant from their peer group, with the proviso that, should the Appellant not appoint a peer onto the Panel within the first (5) days of the 7-day period cited in Paragraph 18, the CEO or Chair/President will appoint a peer for the Appellant.
 - b. Each Panel member will:
 - i. have no significant relationship with the affected parties;
 - ii. have had no involvement with the subject decision being appealed;
 - iii. be free from any other actual or perceived bias or conflict.
20. The Panel shall select either of the two BoD-appointed members to act as Chairperson of the Panel.
21. The ITP will support the Panel by:
 - a. coordinating all administrative and logistical aspects of the Appeals process, ensuring that the procedure is fair, and that the matter is resolved in a timely fashion; and
 - b. providing any other service or support that may be necessary to facilitate a reasonable outcome for all Parties.

HEARING NOTIFICATION

22. Upon the Panel determining that a Hearing should be conducted per Paragraph 18, the ITP shall provide the Appellant and Respondent with at least ten (10) days prior written notice of the date, time

and location (or, if applicable, telephone or video conference) of the Hearing, subject to any changes that may be subsequently agreed per Paragraph 23.

PRE-HEARING CONFERENCE

23. Prior to commencement of the Hearing, the Panel may decide that the dispute warrants a conference amongst the Panel, the Appellant and the Respondent in order to clarify/agree details, such as: date, time and location (or, if applicable, telephone or video conference) of the Hearing; timelines for exchange of documents; clarification of issues in the dispute; order and procedure of the Hearing; other procedural matters; remedies being sought; identification of witnesses; and any other matter that may assist in expediting the proceedings.
24. The Panel may delegate to its Chairperson the authority to deal with these preliminary matters.
25. Any pre-Hearing conference must be completed within five (5) days of the Panel having been established.

PROCEDURE for the APPEAL

26. While the Panel shall govern the Appeals Hearing by such procedures as it deems appropriate, the ITP will ensure the following:
 - a. The Hearing is held within no more than twenty-four (24) days from the date of the ITP receiving the Notice of Appeal and Administration Fee from the Appellant;
 - b. A quorum shall require all three Panel members;
 - c. In the case that a Panel member shall die, or refuse to act, or become incapable of acting as a Panel member *before* the Hearing begins, the party who appointed such Panel member shall forthwith appoint a replacement Panel member who meets the criteria of Paragraph 19b.
 - d. In the case that a Panel member shall die, or refuse to act, or become incapable of acting as a Panel member *after* the Hearing begins, the Hearing and Appeal process shall be completed to its end by the remaining Panel members. In such a case, a quorum shall be the Panel members remaining;
 - e. Decisions shall be by majority vote, where the Chairperson carries a vote;
 - f. Copies of any written documents that the Appellant or Respondent would like the Panel to consider shall be provided to the Panel, and to the other party, via the ITP at least five (5) days in advance of the Hearing. Written documents shall not otherwise be received and considered by the Panel, unless with the unanimous consent of all parties or in the event the Panel determines it just and equitable to do so;
 - g. Both the Appellant and Respondent may be accompanied by a representative or adviser, including legal counsel;
 - h. The Panel, at its sole discretion, may request other individual(s) to participate and give evidence at the Hearing;

- i. The Panel may elect to shorten any of the time periods noted in this Appeals Policy regarding the Hearing, having particular regard for the timing of any event or circumstance that, once passed, will render the Appeal of no practical consequence;
- j. The ITP may, at any stage of the Appeal (including for *Screening of the Appeal's Validity*) but not after the Hearing has been completed, recommend to the Panel that other Participant(s) be added as a party to the Appeal, whose presence as a party is necessary to enable the Panel to determine effectively and completely the issues raised by the Appeal. Any Participant so added shall have the same rights as a Respondent to the Appeal except to the extent such may reasonably be abridged by the Panel having regard for the timing of the order of adding such Participant. The Panel may delegate to its Chairperson the authority to deal with the issue of adding a party to the appeal and other related issues thereto as provided herein;
- k. The Panel may allow as evidence at the Hearing, subject to the disclosure requirements provided for herein, any oral evidence and any document or thing relevant to the subject matter of the Appeal, but the Panel may exclude any such evidence that is unduly repetitious;
- l. The onus shall be on the Appellant to establish on the balance of probabilities any factual basis for the Appeal, and the grounds of Appeal themselves;
- m. The Panel may conduct such preliminary meetings (by conference call, videoconference or in person) with the parties as it deems appropriate to expedite the actual Hearing of the appeal.

APPEAL DECISION

- 27. Within seven (7) days of concluding the Hearing, the Panel shall issue its written decision, with reasons, to all Parties, the CEO, and the ITP. In making this decision, the Panel shall have no greater authority than that of the Respondent. Therefore, the Panel may decide:
 - a. To confirm the decision and dismiss the appeal;
 - b. To void the decision and refer the matter back to the Respondent for a new decision;
 - c. To vary the decision where it is found that an error occurred and such an error cannot be corrected by the Respondent for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;
 - d. To determine how costs of the Appeal shall be allocated excluding the legal costs and legal disbursements, if at all.
- 28. The decision of the Panel shall be final and binding on all parties, except for matters that are eligible for arbitration through the Sport Dispute Resolution Centre of Canada (SDRCC) per Paragraph 33.

TIMEFRAMES

- 29. If the circumstances of the Appeal, or if circumstances beyond or outside of the Appeal, are such that the ITP and/or the Panel determine that the Appeal process cannot be completed per the timeframes contemplated in this Appeals Policy (summarized in Appendix II), the ITP and/or the Panel may elect to shorten or to lengthen the process, as the circumstances dictate.

30. The Panel may delegate to the Chairperson its authority to abridge or extend the timeframes.

DOCUMENTARY APPEAL

31. Either the Appellant or Respondent may request that the Panel conduct the Appeal by way of documentary evidence. The Panel may seek agreement from the other party 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.

ARBITRATION

32. Participants shall, first, pursue any dispute with a decision of a Respondent through formal appeal as set out in this Appeals Policy.

33. Decisions of the Panel resulting from appeals undertaken Paragraph 2c and 2d, may subsequently be referred to independent arbitration through the Sport Dispute Resolution Centre of Canada (SDRCC), provided the Appellant does so in accordance with the prescribed timeline, rules and procedures of the Canadian Sport Dispute Resolution Code.

LOCATION and JURISDICTION

34. An appeal may be held in person, by videoconference or by telephone conference as may be decided by the Panel as a preliminary matter.

35. This Appeals Policy shall be governed and construed in accordance with the laws of the Province of Alberta even though the appeal may occur in another jurisdiction.

36. No action or legal proceeding shall be commenced against BCS in respect of a dispute, unless BCS has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in this Appeals Policy.

Appendix I: Alternate Dispute Resolution (ADR) - Appeals

PURPOSE

1. BCS supports the principles of *Alternate Dispute Resolution* (ADR) and is committed to the techniques of negotiation, facilitation, and mediation as effective ways to resolve appeals.
2. BCS encourages all Participants and Parties to communicate openly, collaborate, and use problem-solving and negotiation techniques to resolve their differences. BCS believes that negotiated settlements are usually preferable to outcomes resolved through other resolution techniques.

APPLICATION

3. Under BCS's Appeals Policy, ADR is only applicable when all Parties to the appeal agree that such a course of action would be mutually beneficial.

FACILITATION AND MEDIATION

4. If all Parties to an appeal agree to ADR, a mediator or facilitator, acceptable to all Parties, shall be appointed by the ITP to mediate or facilitate the appeal, or the Parties may appoint the ITP to act as the mediator/facilitator.
5. The costs of mediation or facilitation shall be borne by the Appellant and Respondent, unless agreed to otherwise with BCS. The Parties are responsible for the costs of their legal counsel (if applicable) or the costs of any other form of representation.
6. Where BCS is involved in the matter, it may, upon agreement of the other parties, refer the matter for mediation using the mediation services of the Sport Dispute Resolution Centre of Canada (SDRCC).
7. The mediator or facilitator shall decide the format under which the appeal shall be mediated or facilitated and may, if they consider it appropriate, specify a deadline before which the Appellant and Respondent must reach a negotiated settlement.
8. The final negotiated settlement will be communicated by the mediator or facilitator to the Appellant, Respondent, ITP and BCS.
9. Any actions that are to be taken as a result of the settlement shall be enacted on the timelines specified by the settlement.
10. If BCS is required to implement any part of a settlement, it shall become a Party to the mediation or it shall be given the opportunity to approve the settlement, but only with respect to aspects of the settlement that affect BCS.

11. Should a negotiated settlement not be reached by the deadline specified by the mediator or facilitator, the appeal shall be considered under the appropriate section of this Appeals Policy.

FINAL AND BINDING

12. Settlements negotiated by ADR may NOT be appealed.
13. Settlements will be binding on the Parties and shall, unless the Parties agree otherwise, remain confidential and will be protected by BCS's *Privacy Policy*.
14. No action or legal proceeding will be commenced against BCS or its Participants in respect of an appeal, unless BCS has refused or failed to provide or abide by its governing documents.

Appendix II: Timeframes

Appeals Process Step	Timeframe for Step	Maximum Calendar Days Elapsed by end of Step
paragraph 4: Receipt by Participant of decision that the Participant, as Appellant, wishes to appeal	n/a	day 0
paragraph 4: Appellant's Notice of Appeal to ITP	≤14 days	day 14
paragraph 13: ITP's decision to dismiss Appeal or proceed to Hearing	≤10 days	day 24
paragraph 18: Establishment of Appeals Panel	≤7 days	day 31
paragraph 22: If a Hearing, ITP's formal notice of same to the Parties	≥10 days	day 31
paragraph 26: Pre-Hearing Conference (if applicable)	≤5 days	day 36
paragraph 26f: Appellant's and/or Respondent's submission of documents for Hearing (if applicable)	≥5 days	day 36
paragraph 26a: Appeals Hearing	≤1 day	day 41
paragraph 27: Panel's communication of its ruling on the Hearing	≤7 days	day 48