

## Own the Podium Dispute Resolution Policy

NOTE: In this Policy members refers to all categories of members of OWN THE PODIUM (OTP), as well as to all individuals engaged in activities with or employed by OTP; “Appellant” refers to the member appealing a decision; and “Respondent” refers to the body whose decision is being appealed.

In this Policy “days” shall mean total days, irrespective of weekends or holidays.

### SCOPE OF APPEAL

1. Any member of OTP who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body 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 5 of this Policy. Such decisions may include, but are not limited to, harassment, selection and discipline.
2. This Policy shall not apply to matters relating to employment unless otherwise stated.
3. This Policy shall not apply to OTP categorization of sports for targeting purposes or funding recommendations to National Funding Parties.

### TIMING OF APPEAL

4. Members who wish to appeal a decision shall have 10 days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, to the CEO of the OTP.
5. Notice of Appeal shall contain the following information:
  - a) Appellant’s name and address;
  - b) date the appellant was advised of the decision being appealed;
  - c) name of the individual who communicated the decision to the Appellant;
  - d) Appellant’s status (athlete, coach, volunteer, etc.);
  - e) copy of decision being appealed or description of decision if a written document is not available;
  - f) grounds for the appeal (pursuant to Section 5 of this Policy), along with detailed reasons for the appeal;
  - g) explanation of how the decision directly affects the Appellant;
  - h) remedy requested;
  - i) date of notice of appeal and signature of Appellant.

### GROUND FOR APPEAL

6. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include the Respondent:
  - a) making a decision for which it did not have authority or jurisdiction as set out in OTP’s governing documents;
  - b) failing to follow procedures as laid out in the bylaws or approved policies of OTP;
  - 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;
  - d) exercising its discretion for an improper purpose;
  - e) making a decision for which there is no evidence to support.

### APPEALS PANEL

7. Within 5 days of receiving the Notice of Appeal, the CEO, or delegate, shall appoint an Appeals Panel (the “Panel”) as follows:
  - a) the Panel shall be comprised of either a single adjudicator sitting alone or a panel of three individuals. The CEO, in consultation with the Appellant, shall decide whether a one- person or three-person panel will be appointed. Should the parties not agree, a three-person panel shall be appointed;

- b) the Panel member(s) 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;
- c) in the case of a single adjudicator, an independent person outside OTP shall be appointed;
- d) in the case of a three-person panel, at least one of the Panel's members shall be from among the Appellant's peers;
- e) the Appellant shall be given the opportunity to recommend the peer member on the Panel, provided that member satisfies criterion (b) above;
- f) should the Appellant not recommend the Panel member as set out in (e) above within 5 days, the CEO shall appoint the peer member of the Panel;
- g) the Panel members shall select from themselves a Chairperson.

#### SCREENING OF APPEAL

- 8. Within 5 days of its appointment, the Panel 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 5. The Panel shall not determine if the error has been made, only if the appeal is based on such an allegation of error by the Respondent. The Panel may delegate to its Chairperson the authority to deal with screening matters.
- 9. If the appeal is denied on the basis of insufficient grounds, the Appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the Panel, or delegate, and may not be appealed.

#### PRELIMINARY CONFERENCE

- 10. The Panel may determine that the circumstances of the dispute warrant a preliminary conference:
  - a) 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;
  - b) the Panel may delegate to its Chairperson the authority to deal with these preliminary matters.

#### PROCEDURE FOR THE APPEAL

- 11. The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:
  - a) the appeal hearing shall be held within 21 days of the Panel's appointment;
  - b) the Appellant, Respondent and Affected Parties shall be given 14 days written notice of the date, time and place of the appeal hearing;
  - c) where a three-person panel is hearing the matter, a quorum shall be all three Panel's members;
  - d) decisions shall be by majority vote, where the Chairperson carries a vote;
  - e) 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 5 days in advance of the hearing;
  - f) any of the parties may be accompanied by a representative or advisor, including legal counsel; however, that party shall be responsible for the costs of that person;
  - g) the Panel may direct that any other individuals participate in the appeal;
  - h) 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 Panel members;
  - i) unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties except in the presence of, or by copy to, the other parties.
- 12. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone or videoconference.

#### **APPEAL DECISION**

13. Within 7 days of concluding 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:
  - a) to confirm the decision and dismiss the appeal;
  - b) to void the decision and refer the matter back to the initial decision-maker 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 original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality; and
  - d) to determine how costs of the appeal shall be allocated, if at all.
14. A copy of this decision shall be provided to each of the parties and to the CEO.

#### **TIMELINES**

15. If the circumstances of the dispute are such that this Policy will not allow a timely appeal, the Panel may direct that these timelines for which it is responsible be abridged and the CEO. If the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this Policy, the Panel may direct that these timelines be extended.

#### **DOCUMENTARY APPEAL**

16. 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.

#### **ARBITRATION**

17. All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in this policy. If any party believes the Appeal Panel has made an error such as those described in Section 5, the matter shall be referred to arbitration, such arbitration to be administered under the Sport Dispute Resolution Centre of Canada Program for Amateur sport and its Rules of Arbitration, as amended from time to time.
18. Should a matter be referred to arbitration, all parties to the original appeal shall be parties to the arbitration.
19. The parties to an arbitration shall enter into a formal Arbitration Agreement and the decision of any arbitration shall be final and binding and not subject to any further review by any court of competent jurisdiction or any other body.

#### **LOCATION AND JURISDICTION**

20. Any appeal shall take place in the municipality where the National Office of OTP is located, unless held by way of telephone conference call, documentary review or held elsewhere as may be decided by the Panel as a preliminary matter.
21. This Policy shall be governed and construed in accordance with the laws of the Province of Ontario.
22. No action or legal proceeding shall be commenced against OTP in respect of a dispute, unless OTP has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in this Policy.

#### **REVIEW AND APPROVAL**

This Policy will be reviewed by the Board every two years.

**Approved: November 13, 2015**