

4. DISPUTE RESOLUTION POLICY FOR ELITE ATHLETES

Note: In this policy, “days” shall mean total days irrespective of weekends or holidays. In conducting hearings, the Hearing Panel shall have regard to the EC guidelines for conducting hearings.

PREAMBLE

1. Membership and participation in the activities of Equine Canada (EC) and the Canadian Equestrian Team (CET) offers many benefits and privileges. At the same time members and participants are expected to fulfill certain responsibilities and obligations, including complying with the EC Code of Ethics, EC Code of Conduct, EC Rules and all terms and conditions set out in the EC Athlete Agreement.

SCOPE AND APPLICATION OF THIS POLICY

2. This policy applies to matters of dispute between EC and those Athletes that have signed the EC Athlete Agreement. This policy may also apply to disputes between the EC and Athletes who have not signed the Athlete Agreement, where it has been expressly determined as a matter of EC policy that this policy shall be relied upon to resolve such disputes. Examples of disputes that may be dealt with under this policy include, but are not limited to: disputes arising from alleged breaches of the EC Athlete Agreement, disputes relating to the implementation of the EC Athlete Agreement, disputes relating to the selection of Athletes to teams, disputes relating to participation on the CET, disputes relating to the disciplining of an Athlete at competitions and disputes regarding the Athlete’s right to compete at events and competitions.
3. To provide greater certainty as to the scope and limited application of this policy, this policy does not apply to protests, grievances, complaints or disputes:
 - a) arising during EC-sanctioned competitions and which are not related to the CET or the Athlete Agreement, as these are dealt with pursuant to the *Dispute Resolution Policy for Competitions*;
 - b) relating to the certification or evaluation of coaches, as these are dealt with pursuant to the *Dispute Resolution Policy for Coach Certification and Evaluation*;
 - c) relating to disputes among member organizations, as these are dealt with pursuant to EC’s *Dispute Resolution Policy between organizational members*; or
 - d) relating to general disputes among members of EC or between EC members and EC that are unrelated to the CET or the Athlete Agreement, as these are dealt with pursuant to the EC’s *General Dispute Resolution Policy*; or
 - e) relating to employment matters within the EC, as these are dealt with pursuant to *the Personnel Policy*.

REPORTING A COMPLAINT

4. Any individual subject to this policy (whether the athlete or the representative of EC) may report a complaint to the Chair of the Sport Council (or his designate) of EC via the National Office of the EC (hereafter referred to as “President”), together with a brief summary of the matters in dispute.
5. Within 3 days of receiving the written notice of the complaint and summary, the President in the sole exercise of his discretion shall determine whether the matters in dispute and the parties to the dispute are properly within the scope and application of this policy, or are more properly to be dealt with pursuant to another policy of the EC. In the absence of the President, a designate shall perform this function. This decision regarding jurisdiction is final and may not be appealed.

INVESTIGATION

6. Depending on the nature of the reported complaint, the President may appoint an independent individual to conduct an investigation. If this is the case, the Investigator shall carry out the investigation in timely manner and at the conclusion of the investigation shall submit a written report to the President.

HEARING PANEL

7. If the President, or his designate, is satisfied that this policy applies, then, within 14 days of having received the original notice of the complaint or within 14 days of receiving the written report of the Investigator if an investigation was carried out, the President shall establish a Hearing Panel (the "Panel") and select the members of the Panel as follows:
 - a) The Panel shall be comprised of either one or three individuals who shall have no significant relationship with the affected parties, shall have had no involvement with the complaint or the dispute, and shall be free from any other actual or perceived bias or conflict. The decision regarding the size of the Panel shall be in the sole discretion of the President who must, in coming to his decision, ensure that the hearing process complies with the principles of natural justice and provides procedural fairness to all parties.
 - b) If the Panel consists of three persons, and if an Athlete brings the complaint, one member of the Panel shall be an Athlete's nominee. The Athlete may submit a list of three candidates from which the President shall select one candidate to be a member of the Panel. The Athlete's nominee shall have had no involvement with the complaint or the dispute, and shall be free from any other actual or perceived bias or conflict.
 - c) If the Panel consists of three persons, the Panel's members shall select from themselves a Chairperson.

PRELIMINARY CONFERENCE

8. The Panel may determine that the circumstances of the complaint warrant a preliminary conference. In most cases the preliminary conference shall be conducted by telephone. The issues that may be considered at a preliminary conference include:
 - a) the format of the hearing, as the hearing may proceed by either a review of documentary evidence, an in-person hearing, an oral hearing by telephone or a combination of these methods. The Panel, in coming to its decision regarding the format of the hearing, must ensure that the hearing process complies with the principles of natural justice and provides procedural fairness to all parties;
 - b) timelines for the exchange of documents and the extent of disclosure required;
 - c) clarification of issues in dispute;
 - d) clarification of evidence to be presented to the Panel;
 - e) order and procedure of the hearing;
 - f) identification of witnesses; and
 - g) any other procedural matter which may assist in expediting the hearing.
9. If the Panel consist of three persons, the Panel may delegate to its Chairperson the authority to deal with any or all of these preliminary matters.

PROCEDURE FOR AN ORAL HEARING

10. Where the Panel has determined that the hearing shall be held by way of oral hearing, whether in-person or not, the Panel shall govern the hearing by such procedures as it deems appropriate and fair, provided that:
 - a) The hearing shall be held within 21 days of the Panel's appointment.
 - b) The parties involved shall be given 10 days written notice of the date, time and place of the hearing.
 - c) The parties shall receive a copy of the Investigator's report, where an investigation was carried out.
 - d) A quorum shall be the single Panel member or all three Panel members, as the case may be.
 - e) If there are three Panel members, decisions shall be by majority vote, where the Chairperson carries a vote.
 - f) If the decision of the Panel may affect another party to the extent that the other party would have recourse to a hearing in their own right, that party shall become a party to the hearing in question.
 - g) Any of the parties at the hearing may be accompanied by a representative or advisor, including legal counsel.

- h) The Panel may direct that any other person participate in the hearing.

PROCEDURE FOR A DOCUMENTARY HEARING

- 11. Where the Panel has determined that the hearing shall be held by way of documentary review, it shall govern the hearing by such procedures as it deems appropriate and fair provided that:
 - a) All parties are given a reasonable opportunity to review the Investigator's report, where an investigation was carried out; to provide written submissions to the Panel; to review the written submissions of the other parties; to provide written rebuttal; and to provide written arguments.
 - b) The applicable principles and timelines set out in Section 10 are respected.

EVIDENCE WHICH MAY BE CONSIDERED

- 12. As a general rule, the Panel shall consider any evidence that is relevant to the matters in dispute. The normal rules of evidence will be relaxed. The Panel shall have authority to consider hearsay evidence provided the Panel gives to such evidence appropriate weight as might be reasonable in light of the circumstances of its inclusion.

THE DECISION

- 13. Within 14 days of concluding the hearing, the Panel shall issue its written decision, with reasons. The Panel may decide:
 - a) To uphold the complaint;
 - b) To deny the complaint;
 - c) To design a remedy that, in the opinion of the Panel, will resolve the dispute. However, in so doing the Panel is not authorized to change or alter any rule, criteria, policy, procedure or bylaw of the EC that has been properly passed and implemented by the appropriate governing body. Such a remedy may include disciplinary sanctions consistent with those set out in the EC Athlete Agreement; and
 - d) To determine how costs of the hearing, excluding legal fees and legal disbursements of any of the parties, shall be allocated, if at all.
- 14. A copy of the decision shall be provided to each of the parties and to the President. This decision shall be binding on all parties to the dispute. Failure by any party to comply with a decision and remedy shall result in automatic suspension of membership in EC and participation in the CET, until such time as the decision and remedy are complied with.

TIMELINES

- 15. If the circumstances of a complaint or a dispute are such that this policy will not allow a timely resolution of the matter, or if the circumstances of a complaint or a dispute are such that the matter cannot be resolved within the timelines dictated in this Policy, the Panel may direct that these timelines be revised.

DISPUTES AT COMPETITIONS OR WHERE THERE IS A CRITICAL LACK OF TIME

- 16. Breaches of the Athlete Agreement, complaints regarding conduct and disputes involving an Athlete that arise during competitions, at events or in any situation where this policy applies, but where there is no time to implement the process set out above, may be dealt with immediately by the person having been given the authority to act by the EC.
- 17. For every competition, event or activity attended by the CET athletes, the EC President shall formally designate a person to represent the EC who shall have the authority to act pursuant to paragraphs 16 through 21 only. This person shall be referred to as "The EC Person in Authority". Notwithstanding any other process contained in this policy, nothing shall prevent such a person from taking and imposing, on an interim basis, immediate, informal, corrective disciplinary action where appropriate.

18. Any interim sanction, discipline or remedy imposed on the Athlete by the EC Person in Authority shall:
 - a) be consistent with paragraph 7 c) of the EC Athlete Agreement;
 - b) be reasonable and proportionate to the conduct complained of after hearing the Athlete's version of events;
 - c) remain in effect only for the duration of the competition, event or activity; and where the decision is to remove the Athlete from competition or the CET, such a decision may only be made after consultation with the President or Executive Director of EC.
19. Further sanctions or remedies may be applied or imposed on the Athlete after the competition, event or activity. After the competition, event or activity the interim sanctions or remedies may be reviewed, at the option of the Athlete, by reporting a complaint to the President in accordance with this policy.
20. The decision of the EC Person in Authority shall be binding on all parties to this Agreement. Failure by any party to comply with a decision of the EC Person in Authority shall result in an automatic suspension of membership in EC and no further right to any participation in the CET or in CET-related activities. The suspension shall continue until such time as the interim sanctions, discipline or other remedies are complied with.
21. A decision of the EC Person in Authority, made pursuant to paragraphs 16 through 20, is effective immediately and may not be appealed until the interim sanction, discipline or remedy has been reviewed in accordance with this policy.

CONFIDENTIALITY

22. Where the dispute is of a highly sensitive nature, EC shall keep all proceedings under this policy confidential, except where disclosure is directed by the Panel as part of the remedy to resolve the dispute, is required by law, or is in the best interests of the public.

LOCATION

23. The hearing shall take place in the location designated by the President, unless the Panel decides the hearing is to be held by way of telephone conference or unless, at the specific request of a party, a different location is mandated by the Panel as a preliminary matter.

APPEALS PROCEDURE

24. Except where otherwise provided, the decision of the Panel may be appealed in accordance with the procedures set out in the EC's Appeals Policy.