



# in the NEUTRAL ZONE

## Solving the Puzzle of Major Games Selection

A single visit to our online Jurisprudence Database at [www.adrsportred.ca](http://www.adrsportred.ca) is all it takes to appreciate the range of problems associated with selecting participants for major Games or any other national or international competition. In fact, 75 per cent of the decisions rendered by the Sport Dispute Resolution Centre of Canada (SDRCC) and its predecessor, the ADRsportRED program, have allowed selection-related disputes to be resolved. This percentage will no doubt increase with the forthcoming Olympic Winter Games in Torino and the Commonwealth Games in Melbourne. Such statistics merit close attention, particularly given that the selection process is part of a day-to-day routine for members of the sport community. But where to begin?

At SDRCC, our primary mission is to help members prevent and resolve disputes within their own organizations. We believe that selection disputes involve all people in an organization, including, of course, coaches. All individuals must therefore be made aware of this issue and, as a team, must try to define the roles and responsibilities of each person when seeking solutions.

The causes and effects of selection disputes are as varied as the sport organizations themselves. Problems differ according to the type of sport (individual or team), the number of athletes targeted, the existence or absence of training centres, the resources available within the organization, the methods of communication used, the ages of the athletes and so on. The many factors that exist may affect your situation more or less depending on your discipline.

We therefore suggest that you, the coach, prepare a list of factors that could be particularly problematic for your organization when the time comes to select your participants. Once this list has been established and discussed, it becomes easier for each person (athlete, coach, official, administrator, staff member, parent or other)

to pinpoint the areas needing attention and the members best suited to address these needs.

Again, this work should be carried out as a team, for it is unreasonable to believe that only athletes, parents and coaches are responsible for communicating, understanding and applying the selection criteria to everyone's satisfaction. Moreover, as a coach, you are certainly in the best position to bridge the distance between the corporate component of your organization (the establishment and application of selection criteria based on various objective and subjective factors and past experience) and the athletes' desire to compete and perform. Your role is essential and extends well beyond your technical expertise. You are a guide and resource person for those seeking selection. The information that concerns them also concerns you.

SDRCC recommends the following selection reference documents, which are available online at [www.adrsportred.ca](http://www.adrsportred.ca). You can forward copies of these documents and the information they contain to your colleagues and athletes. SDRCC can provide you with printed copies of these texts on request:

- *Selection Criteria for Amateur Sport: Guidelines and Tips* (click on Guidelines on Selection)
- *In the Neutral Zone*, our quarterly newsletter (the August 2005 issue focuses on selection for major Games)
- decisions rendered by SDRCC on selection issues (available from our Jurisprudence Database)
- case studies of selection-related decisions rendered by SDRCC (also in our Jurisprudence Database; the abstracts are straightforward, illustrated summaries of our decisions and include the lessons learned from each case)



BY JULIE DURANCEAU

- articles of interest published by other organizations
- an online loan service for books and publications (available through our Doctrine Database)

Understandably, SDRCC has no miracle cure for selection disputes, but we can assist you in establishing a process to help prevent crises in your organization. In summary, this process has four main steps:

- raising awareness among members of your organization about the problems associated with selection
- establishing, as a team, a list of factors that apply to your organization and affect the way selection criteria are developed, communicated and applied
- defining the roles and responsibilities of each member over the course of the selection process, from the establishment of criteria to the publication of the list of participants selected

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- communicating and working as a team; too often, problems arise when people work individually and do not adequately communicate the information available

Finally, SDRCC's Resource and Documentation Centre offers qualified personnel who can guide you to the right resources if we are unable to answer your questions directly. We therefore recommend that you call us at 1-866-733-7767 or write to us at [info@adrspportred.ca](mailto:info@adrspportred.ca) if you have questions, suggestions or comments or if you are experiencing problems that you feel unable to solve with confidence. SDRCC was created for you, and we urge you to make the most of our services. Talk to you soon! 🙌

*Julie Duranceau is a lawyer, trained mediator and the co-ordinator of the Resource and Documentation Centre at SDRCC.*

## BIRD'S-EYE VIEW

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achieve (performance potential). We are in a good position to make the tension between diverse interests work for us. We can create a distinctively Canadian response to the performance paradigm and to our social responsibilities. We are ready to meet up with this kind of a push-pull interaction.

And if I've learned anything these past 18 months, it is that coaches will be the ones who can keep us on a balanced track — driven to perform and fully aware of our responsibilities to each other. 🙌

*Ian Bird is CPCA's past executive director and current senior leader for the Sport Matters Group.*

## KNOWING THE LAW *Continued from page 13*

various events. Unfortunately, one of the athletes achieved the performance standards but did so 12 days after the deadline of January 13. The COA maintained that the agreement should be strictly applied and that the timeframe for qualifying was a condition for qualifying and was fully understood and accepted by the athletes. The purpose of this strict application was to “maintain objectivity and avoid [the] arbitrariness” that had plagued selection decisions in previous years. In other words, the line must be drawn somewhere. To be fair for all, the COA must set a final date for qualification that will permit other matters to be completed such as internal appeals, COA approval of nominations, registration of selected athletes with the host, outfitting of the team and so on.

In this case, the arbitrator recognized two kinds of conditions — performance-related conditions and administrative conditions. He found the published deadline for qualification in this instance to be administrative in nature. He also found that the basic goal of the selection process was to ensure that athletes were selected on the basis of their performance — in other words, a merit-based selection. In this case, the strict application of the qualifying timeline undermined this basic principle of merit-based selection. From a practical perspective, the arbitrator accepted that the athlete's performance did not adversely affect any third party, was within the timeframe of International Federation rules and supported the principle of merit-based selection.

There has been some refinement of this principle in a subsequent case heard through the ADRsportRED program (*Janyk vs. Canadian Olympic Association and Alpine Canada*, February 2002). However, this time the athlete had not yet met the qualifying standard by the time she brought forward her appeal, as opposed to the athlete in the prior decision who had already made the qualifying standard. **Janyk** was asking for an extension of the timeline in the hope that she would make the qualifying standard. In this case the arbitrator refused to grant her appeal.

The main difference between the two cases was that in the first case the athlete had made the qualifying standard, although just outside the permissible timeline, and in doing so was not affecting any other athlete who had made the standard within the timeline. As well, the 12-day delay was still within a reasonable timeframe from an administrative perspective. In the second case, the athlete wanted

the timeline extended. Standards had not been met, and thus the case was not a simple matter of judging how a late qualification affected other athletes and related to administrative requirements.

We had the opportunity to apply this principle in a selection dispute for the Canada Summer Games in August of this year. In a nutshell, the athlete had succeeded in being selected to Team Ontario in the previous year. She then allowed her membership in the provincial sport organization to lapse, and such membership was a condition of eligibility for selection to any provincial team. The error was noticed in ample time and could easily have been corrected, but the provincial sport body took the position that the athlete had missed the deadline for membership renewal. Moreover, this deadline was linked to dates for provincial and national competitions only, and bore no relationship to the Canada Games. We were successful in helping the athlete get reinstated to Team Ontario on the basis that the deadline was purely administrative in nature.

The lesson learned here is that there is a distinction between criteria relating to performance and criteria relating to administrative requirements or conveniences. Administrative deadlines are important, and at some point they are simply indisputable and immovable. However, selectors can have far greater flexibility and remedial powers when dealing with administrative criteria, particularly when relaxing them does not adversely affect anyone else. Although we maintain that it is always good policy to follow the rules, sometimes a deadline is not a deadline — and that can be a good thing when it ensures that an athlete is selected based on merit. 🙌

*Hilary Findlay, a lawyer, and Rachel Corbett, a risk management consultant, are founders and directors of the Centre for Sport and Law. They are regular contributors to Coaches Report. Steve Indig, a lawyer, became a partner in the Centre for Sport and Law in September 2004.*