



Reflections on the Resolution Facilitation Process

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What is Resolution Facilitation (RF)?

In 2006 Resolution Facilitation was introduced by the SDRCC as an assistance process that allows the parties involved in a sport related dispute to communicate more effectively and to work together towards an agreement. The RF process can be used in three different ways:

- as a preventative measure
- as a mandatory step before arbitration or
- in a modified form for doping cases

Is it successful?

Since 2006 the success rate for RFs has been growing. Thirty-three percent of cases of RFs have settled since 2006 and 41% of RFs have settled since 2010. The settlement rate will continue to grow as the process becomes better known in the sports community and as National Sports Organizations (NSOs) use it more frequently.

How is it used?

Of the settled cases, 80% revolved around carding and selection/eligibility matters.

What are the benefits of the RF process?

Resolution Facilitation provides the parties to a dispute, the opportunity to exchange information on their respective cases in a confidential setting. The parties communicate their perceptions on what the dispute is all about. Through the assistance of the Resolution Facilitator, who acts as a mediator, the parties hear each other's views on the matters and often new information comes to light which changes the parties' perspectives and opens up new possibilities for resolution.

What does the Resolution Facilitator do?

The Resolution Facilitator guides the discussion ensuring each of the parties have a full and ample opportunity to state their case. Through the use of effective questions he or she facilitates a discussion which hopefully surfaces the underlying interests and needs of the parties, and not

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just their stated positions. This allows the parties to gain new insight into the issues involved and the opportunity to explore options for settlement. The discussion clarifies what the parties want to achieve and their willingness to search for solutions.

What personal experience do you have with the RF process?

A couple of RFs in which I was involved as the Resolution Facilitator come to mind. One was a multi-party dispute related to team selection. Knowing the matters in dispute were of a sensitive nature and that there was the potential for acrimony and negativity on the part of those on the conference call, I purposely chose a positive and very respectful introductory approach with the parties. I thanked them for taking the call, and expressed my optimism the parties could work toward a mutually beneficial resolution. All parties were given the opportunity to speak and express their concerns and aspirations. Counsel for the parties, after much discussion, proposed an alternative formula for team selection which was adopted by those on the conference call, and which was to be sent out to all those not on the line for ratification. At the end of the RF I thanked all those on the conference call for their participation and efforts at arriving at a resolution and told them I was impressed with how well things came together. Given that most of them were expecting a fight and a highly emotional conflict, they were surprised at how smooth and professional the discussion was. They came away with a more enlightened appreciation of the RF process.

Another of my RFs exemplified the modified method for doping cases. These RFs have their own peculiarities in that a doping RF is more an information exchange process rather than a search for resolution. Before the RF began I spoke briefly with each of the parties individually. I asked the athlete and their representative what their expectations were for the RF and what they hoped to achieve. I then talked to the CCES (Canadian Centre for Ethics in Sport) representatives about their expectations for the RF. In this way I gained an appreciation of the concerns of the parties and knew what questions they wanted answered, before they were back together on the conference call. The role of the Resolution Facilitator is to guide the discussion by bringing out questions the parties may have of each other. In particular, the athlete may not be aware of the RF and the arbitration process and may have questions about them. In a doping related RF, the issues normally surround the length of the period of ineligibility and what if any are the mitigating factors which may modify the length of the suspension. From the point of view of the CCES they want to ensure the athlete is fully informed of their options and that, in itself, helps the parties have a dialogue around what may be expected at arbitration and the possible outcomes flowing from the arbitration. In my particular RF, the athlete was more knowledgeable of the options available at the end of the meeting, and the CCES representatives had a better understanding of the case from the athletes' perspective. The Resolution Facilitator in such cases raises the relevant issues in order for the parties to gain an awareness of each other's concerns. The RF assists in that information exchange process. At the end of this RF the parties kept open the possibility of a further RF session if needed, in case further discussions required the assistance of a neutral person.



Whether a resolution is achieved or not, the RF process is an important process for the parties to a sport dispute to better understand one another and, with the assistance of the Resolution Facilitator, gain insight into the concerns and needs of the other party. This can then lead to an exploration of possible solutions, knowing that the conversations involved are confidential and any proposed solutions are offered without prejudice and for discussion purposes only. It is the parties who come up with the possible solutions, thereby increasing the likelihood they will be adhered to since as is was their idea in the first place.

What would you say to athletes and sports organizations about RF?

Both the athletes and sports organizations should be aware of what the RF process is and the benefits of it. They should consider using it in the event there is a dispute, before it becomes escalated and gets to arbitration.