



# in the NEUTRAL ZONE

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On behalf of the Board of Directors of the Sport Dispute Resolution Centre of Canada (SDRCC), I'd like to thank you for taking the time to read our second issue of IN THE NEUTRAL ZONE.

The SDRCC has now completed its first year, and while we were not immune from growing pains, we are proud of what we accomplished and excited about our path for the next couple of years. During the past year, we implemented our ADR Code, hired our staff, and opened our Laval (QC) office from where we now manage our Resource Centre and Dispute Secretariat. We are extremely happy with the team we now have in place and look forward to watching them grow with our expanded services.

Our major initiative this year will be the introduction of the Resolution Facilitator, or "RF". The SDRCC decided that we needed a RF because we perceived a need to have someone who could help people work through sports-related disputes, understand how arbitrations might be conducted, and solve problems that need not go to arbitration. The RF will focus on all members' underlying interests to help them find a workable resolution that they can both accept. The RF can also inform people involved in sports disputes about what might happen at arbitration, and can help them understand arbitration decisions that have been rendered. We hope to have the RF role officially introduced into the system in the next few months.

## Our major initiative this year will be the introduction of the Resolution Facilitator, or "RF".

Our primary goal, though, is to continue to educate and train people to find ways to avoid costly and stressful disputes so that members of the Canadian sport community can do what they do best - compete, coach, officiate and manage their sport at the highest level.

Thank you for your support in our first year. We hope to live up to your highest expectations this year.

Allan Stitt  
Chair  
Board of Directors of SDRCC



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Chair  
Board of Directors  
of SDRCC



# Facilitation of Dispute



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Did you know that the Sport Dispute Resolution Centre of Canada (SDRCC) will soon offer a resolution facilitation service? A resolution facilitator (RF) will help members of the sport community resolve conflicts in an informal manner by promoting dialogue, listening and an effort to find solutions<sup>1</sup>.

### Emotions and the Law

We have observed that the majority of arbitration cases are triggered by communication and information problems. Because an arbitrator’s role is to settle a dispute according to the law and the evidence presented by each party, he or she cannot satisfy the expectations of the parties involved if these expectations are based on emotion or a lack of information rather than on the law.

### Communication Promotes Resolution

The goal of the resolution facilitation is to try to resolve disputes using communication rather than confrontation. **At no time will the RF impose a solution.** He or she will listen and ensure that parties communicate in a respectful manner, with each having an opportunity to express their version of the facts and talk about the aspects most pertinent to the situation. The RF will then explore reconciliation and resolution options with the parties, based on the circumstances of their particular case.

### Understanding the Process

We hope that the facilitation process will resolve disputes, but we are aware that it may not always be that way. In such cases, the RF will explain the various options open to the parties, such as mediation, arbitration or Med/Arb, and will answer any questions regarding the next steps.

The goal of resolution facilitation is to try to resolve disputes using communication rather than confrontation.

We have therefore decided to introduce the resolution facilitation process in order to allow members of the sport community to talk about the issues surrounding their dispute and in doing so, address the emotions that inevitably accompany most disputes.

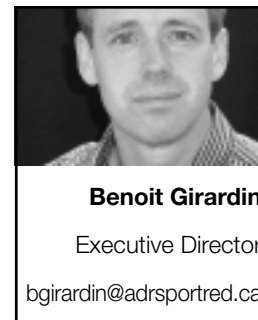
However, the RF must remain neutral in the dispute and can’t therefore advise the parties on the best choice to make. The RF will provide information on past experiences and decisions rendered in similar cases and will guide the parties objectively towards the available processes, without imposing his or her views.

If the process extends to arbitration and a decision is rendered, the RF can meet with the parties once again to help them understand the decision and apply it appropriately, if required.

1. At press time, our Code of Procedure was still being reviewed by the Canadian sport community. As a result, details of the procedures surrounding the role of the RF have not yet been confirmed. This information will be published soon on our Website at : [www.ADRsportRED.ca](http://www.ADRsportRED.ca)



# Doping Cases<sup>1</sup>



Since June 1, 2004, the SDRCC has been responsible for managing disputes related to doping in sport. The Canadian Anti-Doping Program (CADP) is administered by the Canadian Centre for Ethics in Sport (CCES). All sports and their members must respect the CADP and refer any disputes to the SDRCC.

The following is a summary of how a doping case is handled:

## Tests and Analysis

First, the athlete is tested during or outside of a competition. The results of the test are analyzed in a laboratory accredited by the CCES and the World Anti-Doping Agency (WADA) (Institut Armand Frappier, Montreal). The laboratory issues a certificate of analysis indicating the absence or presence of a banned substance. If a substance is present, the quantity is also indicated.

## Review by the CCES

Upon receiving the laboratory report on sample A, and B if applicable, the CCES reviews the case and decides whether the anti-doping rules have been violated. If a violation is alleged, the CCES decides on the sanction to be applied<sup>2</sup> and invites the athlete to a) confirm the violation and accept the sanction, b) provide an additional explanation, or c) exercise his or her right to be heard and to challenge the CCES decision before the SDRCC. If the athlete decides to take the matter to

the SDRCC, the role of the CCES changes, and it becomes a “party” in the case, just like the athlete. At this stage, the SDRCC takes over and advises the parties of the procedures to follow.

## Anti-Doping Tribunal

The SDRCC names an independent arbitrator, who decides on the deadlines for exchanging documents, arguments and evidence, and these deadlines must be respected by the athlete and the CCES. Once this information has been received and communicated, the arbitrator holds a hearing for the parties.

## The Hearing

The hearing can be held by conference call, video conference, in person, through written submissions, or a combination of these options. During the hearing, the CCES presents its evidence first. It must demonstrate that the anti-doping rules have been violated and that the sanction it would like to apply is reasonable. The athlete then has the opportunity to demonstrate his or her position to the arbitrator, in response to the CCES allegations and in doing so, challenge the violation and the sanction. Once the hearing has ended, the arbitrator renders a decision in a short delay.

All of these procedures are confidential. Only the decision itself is made public.

For more information on doping, please visit the following sites:

CCES  
[www.cces.ca](http://www.cces.ca)

Our doping section:  
[www.adrspored.ca/doping/index\\_e.cfm](http://www.adrspored.ca/doping/index_e.cfm)

1. The anti-doping rules are also applicable to the athletes support personnel as defined in the CADP.

2. No violation or sanction will be confirmed without a hearing before the SDRCC or the parties' agreement.

# SDRCC's Latest News

**1** A Guide on Selection criteria for amateur sport available on-line at :  
[www.adrsportred.ca/resource\\_centre/pdf/ADR\\_Guide\\_Selection\\_E.pdf](http://www.adrsportred.ca/resource_centre/pdf/ADR_Guide_Selection_E.pdf)

**2** An article on "Jurisprudence" available on-line at :  
[www.adrsportred.ca/about/press\\_releases\\_e.cfm](http://www.adrsportred.ca/about/press_releases_e.cfm)

**3** Four decisions rendered by the Dispute Secretariat regarding selection and doping issues available on-line at :  
[www.adrsportred.ca/resource\\_centre/jurisprudence/index\\_e.cfm](http://www.adrsportred.ca/resource_centre/jurisprudence/index_e.cfm)



Don't miss our next issue of **IN THE NEUTRAL ZONE** on August 15, 2005

To receive a copy of **IN THE NEUTRAL ZONE** by mail or by e-mail, send us an e-mail at [info@adrsportred.ca](mailto:info@adrsportred.ca)



Event



**August 6 to 20, 2005**

Canada Games, Regina, SK

Don't miss

- > Our new Code of Procedure
- > A Mediation and Arbitration Guide
- > Report on the Operations of the SDRCC for 2004-2005



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