



# in the NEUTRAL ZONE

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XI / MMV

# Managing Disputes Internally

PART 1



As stated in the *Act to Promote Physical Activity and Sport* (2003, c. 2), “[the] mission of the [Sport Dispute Resolution Centre of Canada (SDRCC)] is to provide to the sport community a national alternative dispute resolution service for sport disputes, and expertise and assistance regarding alternative dispute resolution.”

For some, this statement could be interpreted as transferring the responsibility of dispute resolution from the internal organizations to the SDRCC. For the SDRCC, it rather means that the later has a duty to support members of the sport community in managing their disputes, so they can benefit from alternative dispute resolution methods best suited to their needs. In other words, the SDRCC was not created to replace internal dispute management processes, but rather to complement them.



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## Why should disputes be managed internally?

### FOR THE LESSONS LEARNED

Disputes are a fact of life. Internal management of these disputes will lead you to examine any ambiguous rules or procedures in your organization. Such reviews will also allow you to improve the overall management of your organization. Take advantage of the opportunity presented by a dispute to learn from the experience. This is not always easy, but the SDRCC staff will be pleased to help you and your organization draw the best from these situations.

### TO AVOID CREATING A MONSTER

Disputes occur often. If they are managed well as soon as they surface, they are less likely to get out of control and can therefore be more effectively resolved. Reacting quickly and consistently to a problem or potential problem also allows better control of the various resolution approaches available. On the other hand, waiting until a dispute is “serious enough” to be handled externally can often result in new conflicts being generated in the meantime - conflicts that could have been avoided if the problem had been addressed right from the start.

## 6 tips for dispute managers

### note

> Please refer to the *Available Resources* section below to obtain a list of information and tools to help you apply the following suggestions.

### 1 LEARN ABOUT THE VARIOUS DISPUTE RESOLUTION METHODS

One doesn't become an expert in dispute resolution overnight; in fact, some people devote their entire careers to the effort. Various dispute management approaches exist (negotiation, facilitation, mediation, arbitration, etc.), and to apply them with skills, you need to know a certain amount about their respective rules. While most sport organization administrators and employees specialize in other areas, it is a good idea for these individuals to become familiar with the various dispute resolution methods in order to draw on their effectiveness when needed.

### 2 DESIGN A DISPUTE MANAGEMENT SYSTEM THAT ADDRESSES THE NEEDS OF YOUR ORGANIZATION

Just as in sport, practice is key to becoming proficient in managing disputes. To acquire this experience, it is a good idea to begin with clearly defined rules and procedures. In fact, it is very difficult to evaluate our performance and improve without consistent guidelines. It is therefore strongly recommended that you establish dispute management rules (such as an appeal policy), which address the reality and needs of your organization. The ongoing application of these rules will allow you to gain invaluable experience.

### 3 CONFIRM THE AUTHORITY OF THE DISPUTE MANAGER

The notion of "authority" makes reference to the following rule: the individual or individuals who manage a dispute must have obtained this position according to the rules applicable to your organization or through an agreement signed by the parties involved in the dispute. Without such authority, the agreement or decision that ends the dispute will not be considered valid, even if the rest of the process was respected.

### 4 CONFIRM THE NEUTRALITY OF THE DISPUTE MANAGER

No one wishes his or her dispute or position being judged by an individual who is or may be bias. The neutrality rule is easy to apply when the situation is obvious (e.g. if the dispute manager is the father of the athlete involved), but it can become a problem when there is a potential of bias. When such ambiguity exists and the facts surrounding the dispute complicate the appointment of a different conflict manager, it is preferable to discuss this issue with the parties involved. They can then either agree to proceed with full knowledge of the circumstances or help you to explore alternate solutions.

# Can disputes be managed internally?



## ENSURE THAT ALL PARTIES HAVE A CHANCE TO BE HEARD

This rule is essential. Fair and equitable dispute resolution is only possible if all parties have had an equal opportunity to state their position. The following are a few suggestions to guide you in applying this rule:

- > Each party must have a clear understanding of the allegations being made by the other parties; it is impossible to adequately defend yourself if you don't know what you are responding to.
- > Each party must receive all relevant and available information as quickly as possible. This includes applicable rules and contracts; e-mails, letters or other communications; decisions; and evidence (documents, testimony, photos, videos, etc.). To ensure that this information is made available to all parties in a timely fashion, the dispute manager can prepare a list of the information in his or her possession and share it with the parties. This process can be repeated as often as circumstances warrant.
- > Each of the communications concerning the case must be sent to all parties at the same time, and a confirmation of receipt is recommended.
- > Each party must be able to respond to the other's allegations within the same time-limit and under the same conditions.



## OFFER TO FOLLOW UP WITH THE PARTIES

A dispute is rarely over once a decision or agreement ends the original debate. As a result, the management of a dispute should ideally extend beyond the regulatory framework governing it and allow a certain amount of support to be given to the parties during the "post dispute" period, either in helping to apply the decision or agreement, or in helping the parties understand the entire process that has just occurred. Indeed, managing a dispute in a structured manner does not mean that the emotional aspect should be disregarded. Some parties leave the process shaken up - and with good reason. It is recommended that the experience be discussed with them, as this will also allow your organization to appreciate the strengths and weaknesses of the dispute resolution method used and make any changes required to improve the process in the future.

### Available Resources

- > **Qualified personnel** to discuss with you and guide you to helpful resources:  
**1-866-733-7767 / info@adrsporedred.ca**
- > Numerous **publications and references** available at **www.adrsporedred.ca** in the section "Resource and Documentation Centre - Doctrine Database," including booklets published by the *Centre for Sport and Law Inc.* about the internal management of disputes
- > **Arbitration decisions and illustrated Case Summaries** available at **www.adrsporedred.ca** in the "Jurisprudence Database" section
- > **Guides on selection and carding issues, an Appeal Policy Package, and Appeal Policies of sport federations** available at **www.adrsporedred.ca** in the "Resource and Documentation Centre" section
- > **Templates of mediation and arbitration agreements** available at **www.adrsporedred.ca** in the "Resource and Documentation Centre" section
- > **Training workshops and educational programs** on dispute resolution. Please contact the staff of SDRCC for more information about these courses:  
**1-866-733-7767 / info@adrsporedred.ca**

Coming up in the next edition of  
*In the Neutral Zone* on February 15, 2006  
**Managing Disputes Internally, Part 2**  
**The Disputing Parties**

# Latest News at the SDRCC

- 1 > A guide addressing Carding Issues available on-line at [www.adrsportred.ca/resource\\_centre/pdf/ADR\\_Guide\\_Brevet\\_ANG.pdf](http://www.adrsportred.ca/resource_centre/pdf/ADR_Guide_Brevet_ANG.pdf)
- 2 > A regular column « In The Neutral Zone » by the SDRCC in the Coaches Report of the *Canadian Professional Coaches Association* available on-line at [www.cPCA-acep.ca](http://www.cPCA-acep.ca)
- 3 > An article about the SDRCC published in the *Lawyer's Weekly* available on-line at [www.adrsportred.ca/about/publications/ArticleLawyersweekly.pdf](http://www.adrsportred.ca/about/publications/ArticleLawyersweekly.pdf)
- 4 > Decisions rendered by the Dispute Resolution Secretariat in 3 cases and regarding doping, harassment and interpretation 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 February 15, 2006

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)



## Don't miss

- 1 > Our new Code of Procedure
- 2 > A new and mandatory Facilitation process
- 3 > An Arbitration and Mediation Guide
- 4 > A new lay-out and addition of sections on our website

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