

# Sport Law Connect Program

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# Facilitation Rules

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## Article 1 General Provisions

### 1.1 Definitions

All terms defined in the Sport Law Connect Program Guidelines carry the same meaning in the present document.

- (a) “Agreement to Take Part in Facilitation” has the meaning ascribed thereto in Article 2.5(a) hereof;
- (b) “Conflict of Interest” means a situation whereby an individual has a private or personal interest sufficient enough to appear to influence the objectivity of their function as a decision maker;
- (c) “Designated Provincial Administrator” (hereinafter “DPA”), means the provincial organization in charge of administrating the Request as defined in Article 1.1(n), from a Provincial Sport Organization (hereinafter “PSO”) with a Sports-Related Dispute to resolve;
- (d) “Facilitation” has the meaning ascribed thereto in Article 2.1(a) hereof;
- (e) “Facilitator” means a Participant who meets the qualifications determined by the SLCP Guidelines to facilitate the resolution of a dispute and is appointed as such under the SLCP in accordance with these Rules;
- (f) “Guidelines” means the SLCP Guidelines;
- (g) “Hearing” means an adjudication process where a Panel must render a decision regarding a Sports-Related Dispute as defined in Article 1.1(p) hereof;
- (h) “Member(s)” includes an athlete, coach, official, volunteer, director, employee, any other person affiliated with a PSO and any participant in an event or activity sanctioned by a PSO;
- (i) “Outcome” means either settlement between Parties, continuation of procedures or termination of procedures as per Article 6.1 hereof;
- (j) “Panel Member(s)” means one or more individuals named by the Parties to act as an Adjudicator or appointed by the DPA to a SLCP case;
- (k) “Participant(s)” means one or more individuals involved in the SLCP either as a Facilitator or a Panel Member;
- (l) “Party(ies)” means:
  - (i) Any Member or PSO participating in a SLCP Facilitation or Hearing process;
  - (ii) Any Affected Party;
- (m) “Person(s)” means a natural person or an organization or other entity;
- (n) “Request” means a Request for Dispute Resolution, which is the document filed by Parties to initiate a dispute resolution mechanism pursuant to SLCP Guidelines and Rules as defined in Article 1.1(o);
- (o) “Rules” means the SLCP Facilitation Rules; and

- (p) “Sports-Related Dispute” means a dispute affecting participation of a Person in a sport program or a sport organization. Such disputes may include (but are not limited to) those related to:
- (i) Team selection;
  - (ii) A decision made by a PSO board of directors, a committee thereof or an individual delegated with authority to make a decision on behalf of a PSO or its board of directors, which affects any Member of a PSO;
  - (iii) Any dispute affecting participation of a Person in a sport program or a sport organization, for which an agreement to conduct an SLCP Facilitation or Hearing process has been entered into by the Parties.

## 1.2 Language

- (a) Parties can agree on the language of the Facilitation to be either English or French, or a combination of both.
- (b) In the absence of an agreement by the Parties on the language of the Facilitation, the Facilitator shall determine the language in which it will take place.

## 1.3 Interpretation of the Facilitation Rules

- (a) The English and French versions of these Rules are equally authoritative and shall be interpreted as such.
- (b) Unless the context otherwise requires, the singular form shall include the plural form and vice versa, and in particular the definitions of words and expressions set forth in Article 1.1 hereof shall be applied to such words and expressions when used in either the singular or the plural form.
- (c) Unless the context otherwise requires, words importing a particular gender shall include all genders.
- (d) “In writing” or “written” includes printed, typewritten or any electronic means of communication capable of being permanently reproduced in alphanumeric characters at the point of reception.

## 1.4 Time Limits

- (a) All days are included in the calculation of time limits hereunder, including weekends and holidays.
- (b) When a deadline falls on a Saturday, Sunday or statutory holiday, the next business day shall be the deadline, unless agreed otherwise by the Panel and the Parties.

## 1.5 Miscellaneous Provisions

- (a) These Rules may be amended from time to time by the SLCP.
- (b) When the Parties agree to use the dispute resolution services of the SLCP, the present Rules shall apply only if dispute resolution clauses, agreements, policies or rules which otherwise bind the Parties are inexistent, incomplete or deemed inadequate by the Facilitator.

## **Article 2 Facilitation General Administration**

### **2.1 General**

- (a) Facilitation under the provisions of this Article is a non-binding and informal procedure, in which each Party undertakes in good faith to negotiate with all other Parties, with the assistance of a Facilitator, with a view to settling a Sports-Related Dispute.

### **2.2 Role of the Facilitator**

- (a) The Facilitator shall assist Parties to come to a settlement. The Facilitator has no decision-making authority regarding the Outcome of the Facilitation except ascribed hereto in Article 6.1(a)(iii).
- (b) The Facilitator is a third-party neutral, not advocating for or on behalf of any of the Parties involved. The Facilitator shall not give any legal advice to the Parties.

### **2.3 Parties, Affected Parties & Representation**

- (a) A Party has the right to be represented during the Facilitation. A representative designated by a Party does not have to be a lawyer, but must be of the age of majority in the province or territory where the Facilitation takes place.
- (b) A Party under the age of majority in its province or territory shall be represented by an adult designated by its parents or legal guardian.
- (c) Persons potentially affected by the Outcome of the Facilitation shall be invited to the process and be designated as Affected Parties.
- (d) Where Parties designate representatives, such representatives shall detain full authority to settle the dispute or communicate with the Facilitator on their behalf.

### **2.4 Initiation of a Facilitation Process**

The Facilitation process begins:

- (a) Upon the signature of the Agreement to Take Part in Facilitation as described in Article 2.5 by the Parties, pursuant to the Request filed by a PSO in accordance with Article 5.2 of the SLCP Guidelines; or
- (b) When Parties wishing to suspend a Hearing process, to try and resolve their dispute amicably, sign an Agreement to Take Part in Facilitation.

### **2.5 Agreement to Take Part in Facilitation**

- (a) Once signed, Parties and the Facilitator agree to abide by the Rules comprised hereof by signing the Agreement to Take Part in Facilitation. Each Party and the Facilitator shall receive a copy of the fully signed Agreement to Take Part in Facilitation.

### **2.6 Appointment of a Facilitator**

- (a) The DPA will appoint a SLCP Participant to act as a Facilitator pursuant to the appointment process outlined in the SLCP Guidelines.
- (b) The Facilitator shall be free from Conflict of Interest with the Parties and the issues in dispute. Upon being appointed to a case, the Facilitator accepting the appointment shall submit a Declaration of Independence form to be circulated to all Parties.

- (c) The appointment process will be completed once the DPA communicates the name of the Facilitator to the Parties in writing and no Party objects to the nomination after the Declaration of Independence, pursuant to Article 2.6(b) has been circulated.
- (d) The Facilitator, once appointed, shall communicate with the Parties within 24 hours to commence the Facilitation process.

### **Article 3 Confidentiality and Privacy of Facilitation Process**

#### **3.1 Confidentiality of Facilitation Process**

- (a) The meetings between the Facilitator and the Parties shall be confidential and without prejudice. The Facilitator must inform all Parties of the confidential nature of Facilitation.
- (b) The Facilitator, the Parties, their representatives and advisors, the experts and any other Persons present during the Facilitation shall not disclose or use any information or document given to them during the Facilitation in any other type of proceedings, unless required by law to do so.
- (c) The Facilitator may not be called as a witness and the Parties undertake not to compel the Facilitator to divulge records, reports or other documents, or to testify in regard to the Facilitation in any arbitral or judicial proceedings, including proceedings before a Hearing Panel, unless required by law to do so.
- (d) Within 30 days after the conclusion of the Facilitation or the signature by all Parties of the settlement agreement, the Facilitator shall destroy all information, documents and communications created or received by the Facilitator in connection with the Facilitation unless otherwise agreed by the Parties.

### **Article 4 Facilitation Process**

#### **4.1 Conduct of the Facilitation Process**

- (a) Each Party shall cooperate in good faith with the Facilitator.
- (b) The Facilitator will review the Agreement to Take Part in Facilitation at the beginning of the Facilitation session with the Parties.
- (c) The Facilitation shall be conducted in the manner agreed by the Parties. Failing such agreement between the Parties, the Facilitator shall determine the manner in which the Facilitation will be conducted.
- (d) The Parties may agree on the schedule regarding the Facilitation. This schedule shall take in consideration due diligence, and shall not be decided in disfavor of good procedure by impeding the competence of the Facilitator.
- (e) In the absence of a schedule set by agreement, the Facilitator may establish a calendar, taking in consideration the nature of the matter, the prejudice caused by time passing and the ability of Parties and the Facilitator to fully take part in the process, for the benefit of the Parties to his best judgement.
- (f) The Facilitator shall devote sufficient time to the Facilitation process to allow it to be conducted expeditiously.

- (g) The Parties and the Facilitator shall agree on the extent of documentary disclosure required for an effective Facilitation, but the Facilitator shall not have the power to compel the disclosure of any document.
- (h) The Facilitator is authorized to have private discussions with a Party in the absence of another Party in the form of a caucus. A caucus may be requested by a Party or suggested by the Facilitator at any time.
- (i) The Facilitator and the Party shall agree on what parts of their discussions are to remain confidential upon returning to the Facilitation session.
- (j) All Parties shall have the same rights to participate in caucuses with the Facilitator and he/she shall offer the same opportunity to the other Party(ies) whenever a caucus is held as part of the process.

## **Article 5 Settlement**

### **5.1 Settlement between Parties**

- (a) If the Parties settle at the Facilitation, a document evidencing the terms of the settlement should be prepared and signed by the Parties. All Parties shall be provided with a copy of the fully signed settlement agreement.
- (b) The Facilitator shall not recommend any settlement option to the Parties.
- (c) The Facilitator may assist Parties in drafting a settlement agreement, but shall not be the main drafter. The Facilitator shall recuse from the settlement drafting if a concern is raised by any Party.

### **5.2 No Settlement**

- (a) In the event of a failure to resolve the dispute by Facilitation, the Facilitator shall not accept an appointment as a Panel Member in any other proceeding concerning the same dispute, unless all Parties (including Affected Parties, if any) otherwise consent in writing.

## **Article 6 Termination of Facilitation & Liability**

### **6.1 Termination of Facilitation**

- (a) The Facilitation is terminated:
  - (i) When a settlement agreement is signed by the Parties;
  - (ii) When one or more Parties refuses to pursue the Facilitation; or
  - (iii) When the Facilitator determines that further efforts at Facilitation would not be useful in the circumstances.

### **6.2 Exclusion of Liability**

- (a) The Facilitator is required to report the suspension, termination or completion of the Facilitation to the DPA.

- (b) The Parties agree and warrant that the Facilitator is covered under the Directors & Officers Liability Insurance, or any other insurance of the same nature, of the PSO that is involved in the Facilitation.
- (c) The SDRCC, the DPA, the Facilitator or any partner organization of the SLCP, shall not be held liable to any Party for any act or omission in connection with a Facilitation conducted under the present Rules. In any event, the SLCP, its Administrators and its partners are not responsible for any loss or damage incurred by any Party or any other Person arising from negligence or any other cause whatsoever.