

# Sport Law Connect Program

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# Hearing Rules

March 2021

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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) “Affected Party” means a Person who may be adversely affected by a decision of the Hearing Panel such as losing a previously granted status or privilege, and:
  - (i) Who is accepted by the Parties as an Affected Party; or
  - (ii) Who is accepted or named by the Panel as an Affected Party;
- (b) “Claimant” means a Person initiating a Facilitation or a Hearing process;
- (c) “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;
- (d) “Decision” has the meaning in ascribed hereto in Article 4.2;
- (e) “Designated Provincial Administrator” (hereinafter “DPA”), means the provincial organization in charge of administrating the Request as defined in Article 1.1(o), from a Provincial Sport Organizations (hereinafter “PSO”) with a Sports-Related Dispute to resolve;
- (f) “Hearing” means an adjudication process where a Panel must render a decision regarding a Sports-Related Dispute as defined in Article 1.1(t) hereof;
- (g) “Hearing Panel” (hereinafter the “Panel”) means, where the context requires:
  - (i) A single individual appointed as a Hearing Panel Member;
  - (ii) Three individuals appointed as Hearing Panel Members, one of whom shall be designated as the Chairperson;
- (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) “Minor” designates an individual who has not reached the age of majority or is not considered of legal age under the laws and regulations applicable in his province of residence;
- (j) “Outcome” means either settlement between Parties, continuation of procedures or termination of procedures or that the Panel rendered a Decision pursuant to Article 4.2 hereof;
- (k) “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;
- (l) “Participant(s)” means one or more individuals involved in the SLCP either as a Facilitator or a Panel Member;
- (m) “Party(ies)” means:
  - (i) Any Member or PSO participating in a SLCP Facilitation or Hearing process;
  - (ii) Any Affected Party;
- (n) “Person(s)” means a natural person or an organization or other entity;

- (o) “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(q);
- (p) “Respondent” means a Person responding to a Request;
- (q) “Rules” means the SLCP Hearing Rules;
- (r) “SLCP” means Sport Law Connect Program;
- (s) “SLCP Administrators” means the Sport Dispute Resolution Centre of Canada (hereinafter “SDRCC”) and the DPA;
- (t) “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 proceedings 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 proceedings, the Panel shall determine:
  - (i) The language in which the proceedings will take place;
  - (ii) Whether submissions may be made in the other language;
  - (iii) Which Party bears the costs of translation or simultaneous interpretation, if necessary.

## 1.3 Interpretation of the Hearing 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.
- (c) The Parties may agree on time limits regarding their proceedings.
- (d) In the absence of an agreement by the Parties on time limits, the Panel may set deadlines and meetings at all relevant steps, taking in consideration the nature of the matter, the prejudice caused by time passing and the ability of Parties and Panel Members to fully take part in the proceedings. Upon application of a Party on justified grounds, the Panel may extend or reduce time limits.

## 1.5 Miscellaneous Provisions

- (a) These Rules may be amended from time to time by the SLCP Administrators.
- (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 Panel.
- (c) All orders, awards and other decisions made by the Panel shall be communicated to the Parties at the addresses provided to the SLCP upon initiation of the process or as subsequently provided in writing to the DPA by a Party.

## Article 2 Initiation of a Hearing and Jurisdiction

### 2.1 Availability of SLCP Services

- (a) Where a Sports-Related Dispute arises within a PSO recognized by the DPA, the PSO may agree to apply these Rules to resolve such dispute.
- (b) These Rules may be applied to the resolution of disputes related to, but not limited to, eligibility, team selection, allocation of resources, and disciplinary measures. The DPA, at its sole discretion, may accept or refuse requests pertaining to other types of disputes.
- (c) These Rules shall not apply to:
  - (i) Doping offenses, which are handled in accordance with the Canadian Anti-Doping Program;
  - (ii) Criminal offences for which the Claimant is seeking a criminal conviction; and
  - (iii) Matters for which another hearing process already exists under the applicable law or contract, such as commercial or labour disputes.

### 2.2 Parties & Representation

- (a) A Party has the right to be represented during the Hearing process. 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 Hearing is held.
- (b) A Party who is a Minor as defined in Article 1.1(i) 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 Hearing process shall be invited to the proceedings 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 Panel on their behalf.

### 2.3 Jurisdiction, Grounds and Burden of Proof

- (a) Where a dispute is submitted to the SLCP for a Hearing process, all Parties are deemed to have agreed to the jurisdiction of the SLCP and to the application of these Rules. Such agreement may arise from a policy, contract or from the Request therefore binding the Parties. Notwithstanding the existence of an agreement in other form, Parties shall provide to the DPA a signed copy of these Rules before taking part in the proceedings.
- (b) By virtue of submitting a dispute to the SLCP for an appeal process, the PSO is deemed to have established that the dispute is raised on at least one of the following admissible grounds:
  - (i) Making a decision for which it did not have authority or jurisdiction as set out in governing documents;
  - (ii) Failing to follow procedures as laid out in the applicable bylaws or policies;
  - (iii) Making a decision which was influenced by bias, where bias is defined as a lack of neutrality to such an extent that the decision-maker is unable to consider other views and/or that the decision was made on the basis of, or significantly influenced by, factors unrelated to the merits of the matter;
  - (iv) Exercising its discretion for an improper purpose; and/or
  - (v) Making a decision that was grossly unreasonable or unfair.
- (c) If the matter constitutes an appeal process, the Claimant bears the burden of proof, on a balance of probabilities, that the decision being appealed is the result of a procedural error as ascribed hereto in Article 2.3(b).

### 2.4 Initiation of a Hearing

- (a) The PSO in which the dispute arises shall initiate a Hearing process by submitting to the DPA a Request for Dispute Resolution form duly completed and signed.
- (b) The DPA shall validate the admissibility of the Request with regards to:
  - (i) Whether the requesting PSO is admissible to the SLCP services; and
  - (ii) The nature of the dispute is admissible to the SLCP services.
- (c) The decision of the DPA to accept or refuse a Request is final and may not be appealed.

## Article 3 Hearing Panel

### 3.1 Composition of Panel

- (a) The Hearing Panel shall be formed as soon as possible after the Request is accepted by the DPA.
- (b) The Panel of three (3) members will be constituted by the DPA from the list of SLCP Participants, taking into consideration geographical location, urgency of the case and the absence of perceived or real Conflict of Interest.

- (c) In certain circumstances and depending on the nature or complexity of the dispute, the provincial administrator may decide that the Panel be comprised of a single Panel Member appointed from the list of SLCP Participants. The decision of the DPA is final and may not be appealed.

### 3.2 Independence of the Panel

- (a) The Panel Member shall be free from Conflict of Interest with the Parties and the issues in dispute. Upon being appointed to a case, the Panel Member accepting the appointment shall submit a Declaration of Independence form to be circulated to all Parties.

### 3.3 Powers of the Panel

- (a) Once appointed, the Panel shall have full authority to decide on the issue, and any other issue arising from the dispute or the Hearing process.

### 3.4 Exclusion of Liability

- (a) The SLCP Participant appointed to a case is required to report the suspension, termination or completion of the Hearing process to the DPA.
- (b) The Parties agree and warrant that the SLCP Participant is covered under the Directors & Officers Liability Insurance, or any other insurance of the same nature, of the PSO that is requesting the services of the SLCP.
- (c) The SDRCC, the DPA, the SLCP Participant or any partner organization of the SLCP, shall not be held liable to any Party for any act or omission in connection with the Hearing 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.

### 3.5 Confidentiality

- (a) Within 30 days after the conclusion of the Hearing or the circulation of a Decision, the Panel shall destroy all information, documents and communications created by, disclosed to, received by or made available to the Panel in connection with the Hearing process unless otherwise agreed by the Parties.

## Article 4 Hearing Process

### 4.1 Process

- (a) The Hearing Panel shall govern the hearing process according to the procedures it deems appropriate, provided these Rules and the following directives are applied:
  - (i) The Hearing shall be held as quickly as reasonably possible, subject to the nature of the Hearing, the circumstances of the case and the fair conduct of the proceedings;
  - (ii) Decisions of the Panel shall be rendered by a majority;
  - (iii) There shall be no direct communication between Parties and Panel Members regarding the proceedings without all other Parties being included in the exchange, whether it be in written or verbal form. Whenever possible, a case manager should be appointed to manage communications between Parties and Panel Members;
  - (iv) All Parties shall be provided a reasonable opportunity to present to the Hearing Panel their submissions, as well as to review and reply to the submissions of the other Parties;

- (v) Where an oral hearing is held, preference shall be given to Parties' submissions being made in writing in advance of the hearing, subject to the time restrictions and/or urgency of the case;
  - (vi) For sake of expediency and cost reduction, an oral hearing may be heard by way of conference call or videoconference under such safeguards as may be deemed necessary by the Panel to protect the integrity of the process;
  - (vii) The Hearing may proceed solely on the basis of written submissions and documentation if all Parties to the Hearing process consent;
  - (viii) A Party failing to submit documents with a time limit agreed upon by the Parties or set by the Panel shall be deemed to have waived its right to make such filings; and
  - (ix) The Hearing Panel may direct that any other Person or Party participate in the Hearing if the Hearing Panel deems it necessary for the fair conduct of the proceedings or for rendering a fair decision.
- (b) At any time during the Hearing process and before the Panel decision is rendered, the Parties may resolve the dispute through amicable settlement. A document outlining the terms of such settlement shall be fully executed by all Parties and filed with the Panel, which shall declare the case closed by settlement without rendering its Decision.
  - (c) The Claimant may, at any moment during the proceedings, withdraw their Request with a notification in writing to the Panel and all other Parties. The Claimant, in doing so, forfeits their right to file a subsequent appeal on the same matter.

#### 4.2 Decision

- (a) The Panel shall have the authority to:
  - (i) Decide the matter within the limits of its authority as conferred by the applicable policy, if any;
  - (ii) Render any decision that, in the absence of an applicable policy, it considers just and reasonable in the circumstances;
  - (iii) When acting as an appeal panel, annul the decision being appealed and send it back to the original decision-maker with instructions for reconsideration; or
  - (iv) Substitute its decision for that of the original decision-maker.
- (b) The Panel shall make an award in writing with reasons within fifteen (15) days of the completion of the hearing process.
- (c) In extraordinary circumstances, the Hearing Panel may issue an oral decision or a summary written decision, with reasons to follow, provided that the written reasons are rendered within the timelines specified in Article 4.2(b).
- (d) The written Decision by the Hearing Panel shall be final and binding. Within 15 days after the delivery of the original award to the Parties, the Panel may correct a clerical or other error in the award either on request of a Party or on its own initiative.
- (e) The Panel is required to report the suspension, termination or completion of the Hearing process to the DPA.



Appendix A

Parties Agreement to the Application of the SLCP Hearing Rules to their Dispute

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We, the undersigned, acknowledge that we have read and understood the Sport Law Connect Program Hearing Rules and that we agree to submit our dispute for resolution pursuant to such rules.

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[Name of Party 1]

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[Name of Party 2]

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[Signature of Party 1]

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[Signature of Party 2]

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[Name of Representative of Party 1]

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[Name of Representative of Party 2]

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[Signature of Representative of Party 1]

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[Signature of Representative of Party 1]

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[Name of Party 3]

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