



## Archery Canada Appeal Policy

Approved by the Board of Directors on April 7, 2020

### Definitions

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1. The following terms have these meanings in this Policy:
  - a. "Affected Party" – Any individual or entity, as determined by the Appeal Manager, who may be affected by a decision rendered under this Policy and who may have recourse to an appeal in their own right
  - b. "Appellant" – The Party appealing a decision
  - c. "Appeal Manager" – An individual, who may be any staff member, committee member, volunteer, Director, or an independent third party, who is appointed to oversee this Policy. The Appeal Manager will have responsibilities that include using decision making authority empowered by this Policy
  - d. "Days" – All calendar days irrespective of weekend and holidays
  - e. "Individuals" – All Archery Canada members and registrants as defined by the Archery Canada Bylaws and policies, as well as all individuals employed by or engaged in activities with Archery Canada including, but not limited to, athletes, coaches, support persons, judges, officials, volunteers, managers, administrators, committee members, and directors and officers of Archery Canada.
  - f. "Parties" – The Appellant, Respondent, and any Affected Party
  - g. "Respondent" – The Party whose decision is being appealed

### Purpose

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2. Archery Canada is committed to providing an environment in which all Individuals involved with Archery Canada are treated with respect. Archery Canada provides Individuals with this Appeal Policy to enable a fair and expedient appeal process.

### Scope and Application of this Policy

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3. This Policy applies to all Individuals.
4. Any Individual who is directly affected by a decision made by Archery Canada shall have the right to appeal that decision provided that there are sufficient grounds for the appeal under the Grounds for Appeal section of this Policy.

5. This Policy will apply to decisions relating to:
  - a. Eligibility
  - b. Nomination & Selection
  - c. Conflict of Interest
  - d. Discipline
  - e. Membership
  - f. Athlete Assistance Program ("AAP") carding nominations
  
6. This Policy will not apply to decisions relating to:
  - a. Matters of general application such as amendments to the Archery Canada Bylaws;
  - b. Archery Canada's operational structure and committee appointments
  - c. Issues of budgeting and budget implementation
  - d. Employment matters or matters relating to volunteer leadership opportunities
  - e. Infractions for doping offenses
  - f. The rules of Archery
  - g. Nomination and Selection criteria, quotas, policies, and procedures established by entities other than Archery Canada
  - h. Substance, content and establishment of team selection or carding criteria
  - i. Volunteer/coach appointments and the withdrawal or termination of those appointments
  - j. Decisions or discipline arising within the business, activities, or events organized by entities other than Archery Canada (appeals of these decisions shall be dealt with pursuant to the policies of those other entities unless requested and accepted by Archery Canada at its sole discretion)
  - k. Commercial matters for which another appeals process exists under a contract or applicable law
  - l. Decisions made under this Policy

### Timing and Submission of Appeal

7. Individuals who wish to appeal a decision have fourteen (14) days from the date on which they received notice of the decision to submit a written Notice of Appeal to the national office of Archery Canada either electronically to [appeal@archerycanada.org](mailto:appeal@archerycanada.org) or personally delivered to the Executive Director with the fourteen day period.
  
8. The written Notice of Appeal shall contain the following information:
  - a. Appellant's name and their contact information
  - b. Name and contact information of the Respondent and any Affected Parties, when known to the Appellant
  - c. Date the Appellant was advised of the decision being appealed and, where applicable, name of the individual who communicated the decision to the appellant

- d. A copy of the decision being appealed, or description of decision if written document is not available
  - e. Grounds for the appeal
  - f. Detailed reasons for the appeal
  - g. All evidence that supports these grounds
  - h. Requested remedy or remedies
9. Each Notice of Appeal must be accompanied by an administration fee of two hundred dollars (\$200), which will be refunded if the appeal is upheld, or at the discretion of Archery Canada in the circumstance that an appeal is not accepted.
  10. The administration fee may be made through electronic e-transfer to [appeal@archerycanada.ca](mailto:appeal@archerycanada.ca); via cheque enclosed with the notice of appeal; or via credit card payment through the national office.
  11. An Individual who wishes to initiate an appeal beyond the fourteen (14) day period must provide a written request stating the reasons for an exemption. The decision to allow, or not allow, an appeal outside of the fourteen (14) day period will be at the sole discretion of the Appeal Manager and may not be appealed.
  12. Upon receipt of a Notice of Appeal, the Executive Director will provide written confirmation of receipt to the Appellant.
  13. The parties may first attempt to resolve the appeal through Archery Canada's Alternative Dispute Resolution Policy.
  14. Appeals resolved under the Alternative Dispute Resolution Policy will result in the administration fee being refunded to the Appellant.
  15. Should the appeal to Archery Canada not be resolved by using the Alternative Dispute Resolution Policy, the Executive Director of Archery Canada will, without further delay, appoint an independent Appeal Manager (who must not be in a conflict of interest or have any direct relationship with the parties) who has the following responsibilities:
    - a. To determine if the appeal falls under the scope of this Policy
    - b. To determine if the appeal was submitted in a timely manner
    - c. To decide whether there are sufficient grounds for the appeal

## Grounds for Appeal

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16. A decision cannot be appealed on its merits alone. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include the Respondent:
  - a. Made a decision that it did not have the authority or jurisdiction (as set out in the Respondent's governing documents) to make

- b. Failed to follow its own procedures (as set out in the Respondent's governing documents)
- c. Made a decision that was influenced by bias (where bias is defined as a lack of neutrality to such an extent that the decision-maker appears not to have considered other views)
- d. Exercised its discretion for an improper purpose
- e. Made a decision for which there is no supporting evidence; or
- f. Made a decision that was patently unreasonable

## Screening of Appeal

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17. Should the appeal to Archery Canada not be resolved by using the Alternative Dispute Resolution Policy, then within ten (10) business days of receiving the Notice of Appeal, the Appeal Manager shall determine whether there are appropriate grounds for the appeal, as set out in this policy or if the appeal shall be denied because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy.
18. If the Appeal Manager denies the appeal on the basis of insufficient grounds, because it was not submitted in a timely manner, or because it did not fall under the scope of this Policy, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
19. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will forward a copy of the appeal to the Respondent(s) within two (2) business days.
20. If the Appeal Manager is satisfied there are sufficient grounds for an appeal, the Appeal Manager will appoint an Appeal Panel which shall consist of a single Arbitrator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Appeal Manager, an Appeal Panel composed of three (3) persons may be appointed to hear the appeal. In this event, the Appeal Manager will appoint one of the Panel's members to serve as the Chair. Each member of the Appeal Panel shall be appointed for their independence and expertise.

## Determination of Affected Parties

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21. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage Archery Canada. The Appeal Manager may determine whether a party is an Affected Party in their sole discretion.

## Procedure for Appeal Hearing

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22. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Appeal Manager and may not be appealed.
23. If a party chooses not to participate in the hearing, the hearing will proceed in any event.
24. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone or other electronic means, a hearing based on a review of documentary evidence submitted in advance of the hearing, or a combination of these methods. The hearing will be governed by the procedures that the Appeal Manager and the Panel deem appropriate in the circumstances, provided that:
  - a. The hearing will be held within a timeline determined by the Appeal Manager
  - b. The Parties will be given reasonable notice of the day, time and place of an oral in-person hearing or oral hearing by telephone or electronic communications.
  - c. Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
  - d. The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
  - e. The Panel may request that any other individual participate and give evidence at an oral in-person hearing or oral hearing by telephone or electronic communications.
  - f. The Panel may allow as evidence at the hearing any oral evidence and document or thing relevant to the subject matter of the appeal, but may exclude such evidence that is unduly repetitious and shall place such weight on the evidence as it deems appropriate
  - g. If a decision in the appeal may affect another party to the extent that the other party would have recourse to an appeal in their own right under this Policy, that party will become an Affected Party to the appeal in question and will be bound by its outcome
  - h. If more than a single Arbitrator is appointed as Appeal Panel, the decision to uphold or reject the appeal will be by a majority vote of Panel members
25. In fulfilling its duties, the Panel may obtain independent advice.

## Appeal Decision

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26. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the Grounds for Appeal section of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.
27. The Panel shall issue its decision, in writing and with reasons, within seven (7) days after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:

- a. Reject the appeal and confirm the decision being appealed;
  - b. Uphold the appeal and refer the matter back to the initial decision-maker for a new decision; or
  - c. Uphold the appeal and vary the decision.
28. The Panel will also determine whether costs of the appeal, excluding legal fees and legal disbursements of any parties, will be assessed against any party. In assessing costs, the Panel will take into account the outcome of the appeal, the conduct of the parties, and the parties' respective financial resources
29. The Panel's written decision, with reasons, will be distributed to all parties, the Appeal Manager, and Archery Canada. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.

## Timelines

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30. If the circumstances of the appeal are such that adhering to the timelines outlined by this Policy will not allow a timely resolution to the appeal, the Appeal Manager and/or Panel may direct that these timelines be revised.

## Confidentiality

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31. The appeals process is confidential and involves only the parties, the Appeal Manager, the Panel, and any independent advisors to the Panel. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.
32. Any failure to respect the aforementioned confidentiality requirement may result in further sanctions or discipline by the Discipline Chair or Discipline Panel (as applicable).

## Final and Binding

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33. The decision of the appeal panel shall be final and binding upon the parties and upon all Individuals, subject to the right of any party to seek judicial review of the appeal panel's decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC), as amended from time to time, and subject to the following limitations:
- a. In the event that a member is successful during the process of judicial review before the SDRCC, the SDRCC Tribunal shall only have the jurisdiction to remit the matter back to Archery Canada to correct the error identified by the SDRCC, unless this is not practicable in the circumstances or the parties agree otherwise;

- b. The parties will execute an arbitration agreement that shall confirm the jurisdiction of the SDRCC Tribunal to decide the matter, specifically the precise decision under appeal and the issues in dispute and shall specify other matters that the parties agree will be binding on themselves and the SDRCC Tribunal.
34. Where a decision under appeal relates to a carding matter governed by the policies and procedures of the AAP of the Federal Government, Sport Canada shall be invited as a party in the review of the appeal panel's decision before the SDRCC.
35. No action or legal proceeding will be commenced against Archery Canada or Individuals in respect of a dispute, unless Archery Canada has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.

Approved: April 7, 2020

Review: 2021

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