



**SPEED
SKATING
NOVA SCOTIA**

Speed Skate Nova Scotia Governance Complaint and Dispute Resolution Policy 100-7

POLICY TITLE: Governance Complaint and Dispute Resolution Policy	POLICY No: 100-7
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1. PREAMBLE

- 1.1. Speed Skating Nova Scotia (SSNS) recognizes the right of any Member to dispute Decisions of SSNS and its representatives, or to complain of actions which are in violation of SSNS's By-Laws or policies, and hereby provides for a process to resolve complaints arising from such Decisions or actions.
- 1.2. SSNS has a separate Safe Sport Complaints Policy 100-5 in partnership with Speed Skating Canada specifically designed to comply with the Universal Code of Conduct to Address and Prevent Maltreatment in Sport (UCCMS) Policy 100-6 to which SSNS is a signatory. This policy is intended to set up a dispute resolution policy and process for issues that fall outside of the UCCMS.
- 1.3. The purpose of this Dispute Resolution policy is to fairly deal with disputes and complaints without requiring recourse to formal legal proceedings.
- 1.4. In this policy, unless context otherwise requires, words in singular include the plural and vice versa; words importing gender include all genders.

2. DEFINITIONS

Adjudication Panel: Refers to the adjudication panel established under s. 10;

Bias: Refers to 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 a matter;

Case Manager: Refers to an impartial individual nominated by SSNS to oversee only the application of the process described in this policy;

Complaint: The dispute or complaint which forms the subject of the Notice of Complaint;

Complainant (also referred to as "Party"): Refers to a Member disputing a Decision of SSNS;

Days: Means total days, irrespective of weekends or holidays;

Decision: Refers to Decisions made by SSNS's Board of Directors, committees, and delegates, and can include the adoption or enforcement of any rules, by-laws, or other standards, but exclude those of the type enumerated in s. 3.3;

Member: Refers to all Member Clubs and all categories of members of SSNS, as well as to all individuals engaged in activities with or employed by SSNS, including, but not limited to, athletes and their legal guardians, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators, provincial or territorial sport organizations and employees, including contract personnel;

Notice of Complaint: Refers to a notice filed by the Complainant through the form attached as Appendix B;

Respondent (also referred to as “Party”): Refers to the body, person or persons whose Decision is being disputed, or whose action is being complained of;

Statement: Refers to the written response submitted by the Respondent through the form attached as Appendix C;

Working Days: Means total days, excluding weekends and holidays.

3. SCOPE OF DISPUTE RESOLUTION POLICY

- 3.1. Any Member of SSNS may file a Notice of Complaint regarding:
 - o A Decision of the Board of Directors, of any committee of the Board of Directors, or of any body or individual who has been delegated authority to make Decisions on behalf of SSNS or its Board of Directors, provided that Decision directly affects the Member filing the Complaint; or,
 - o Actions by any other member of SSNS which are in violation of the By-Laws or Policies of SSNS, provided there is no other policy or procedure in place to deal with such actions.
- 3.2. All Notices of Complaint must be based on sufficient grounds as set out in s. 4.
- 3.3. Without limiting the scope of s. 3.1 or s. 3.2, this Dispute Resolution policy will not apply to Decisions relating to:
 - o Doping offences, which are handled in accordance with the Canadian Anti-Doping Program;
 - o Disciplinary matters arising during events organized by entities other than SSNS, which are dealt with under the policies of these other entities;
 - o Criminal offences for which the Complainant is seeking a criminal conviction;
 - o Commercial matters for which another resolution process already exists under the applicable law or contract;
 - o Internal financial management;
 - o Policy, policy-based, and/or funding decisions of SSNS;
 - o Labour disputes for which another resolution process already exists under the applicable law or contract; or,
 - o Matters pertaining to a Complaint that is being dealt with by another body or authority. Example: High Performance Bulletin selection process.

4. GROUNDS OF A COMPLAINT

- 4.1. A Complainant is not permitted to dispute a Decision solely on the grounds that it was not favorable to them. A Complaint may be considered only if there are sufficient grounds. Sufficient grounds are:
- SSNS or its delegate did not have authority or jurisdiction as set out in governing documents to make the Decision;
 - Failing to follow procedures as laid out in the by-laws or approved policies of SSNS;
 - Making a Decision which was influenced by Bias;
 - Exercising discretion for an improper purpose;
 - Acting in a way which violates the by-laws or policies of SSNS;
 - Issuing a penalty which is disproportionate to the Complainant's actions or misconduct; and/or;
 - Making a Decision that was unreasonable.

5. TIMELINE FOR DISPUTES

- 5.1. Members who wish to dispute a Decision have fifteen (15) days from the date they receive notice of the Decision to submit their Complaint to the Case Manager.
- 5.2. Members who wish to complain of a violation of by-laws or policies have fifteen (15) days from the date of the alleged violation to submit their Complaint to the Case Manager.
- 5.3. Any Member wishing to submit a Complaint beyond the 15-day period must provide a written request stating reasons for requesting an exemption at the time of submitting the Complaint.
- 5.4. The Decision to allow or refuse the exemption as provided by s. 5.2 will be at the discretion of the Chairperson of the Adjudication Panel.
- 5.5. Other timelines in this policy may be amended at the discretion of the Case Manager or the Chairman of the Adjudication Panel when justified by the circumstances.

6. FILING NOTICE OF COMPLAINT

- 6.1. Members must initiate the Complaint process by filing a signed Notice of Complaint (see Appendix B) with the Case Manager. The Complaint process cannot begin until this application is made. If the Member is unaware who the Case Manager for SSNS is, the Notice of Complaint shall be provided to the Board of SSNS and the Notice of Complaint shall be addressed to the Board.

- 6.2. The Notice of Complaint must include:
- The Complainant's name and contact information, including:
 - Address;
 - Phone Number(s); and,
 - Email address;
 - The Respondent's name and any known contact information;
 - If the Decision being disputed is that of a committee or panel, the name of the head/chairperson of the committee or panel;
 - The Decision being disputed;
 - The grounds for the dispute;
 - A brief summary of any evidence the Complainant intends to provide to the Adjudication Panel supporting their grounds of dispute, including a description of documents to be relied upon, a list of witnesses and a summary of their expected testimony;
 - The remedy sought or solutions proposed by the Complainant;
 - The name of the Complainant's representative(s) and their contact information, if applicable; and,
 - If applicable, the request for timeline-exemption with justification as required by s. 5.2.
- 6.3 The Case Manager will contact the Complainant if the Notice of Complaint is incomplete or to seek any necessary clarifications.

7. INITIAL SCREENING OF COMPLAINT

- 7.1. Upon receipt of the Notice of Complaint, the Case Manager has the discretion to decide whether the Notice of Complaint is admissible. The Case Manager, in their sole discretion, may immediately dismiss the Complaint in the event it is determined that:
- The Complainant is not a Member of SSNS as defined in s.v2;
 - The deadline for filing the Notice of Complaint has not been met; or
 - The Decision being disputed is among the exclusions listed in s. 3.2.
- 7.2. For the purposes of the decision under s. 7.1, the Case Manager will presume the facts presented by the Complainant are correct unless such facts are obviously incorrect.
- 7.3. If the Complaint is dismissed under s. 7.1, the Case Manager will provide notice in writing of this decision and the reasons for it to the Complainant within five (5) working days from the receipt of the Notice of Complaint.

8. NOTIFICATION OF THE DISPUTE AND STATEMENT BY THE RESPONDENT

- 8.1. If the Complaint is deemed admissible, the Case Manager will provide a copy of the Notice of Complaint to the Respondent within three (3) Working Days and request a written Statement (see Appendix C) by the Respondent briefly outlining the basis or justification for the Decision being disputed.
- 8.2. The Respondent's statement must contain:
 - A summary of facts relating to the matter;
 - A summary of the evidence supporting the Respondent's case, including a description of documents to be relied upon, a list of witnesses and a summary of their expected testimony;
 - Solutions proposed by the Respondent;
 - The name of the Respondent's representative and their contact information, if applicable; and
 - The language requested for the proceedings.
- 8.3. The written Statement, completed and signed, shall be forwarded to the Case Manager within five (5) working days from the date of receipt of the Case Manager's request or such shorter or longer period as the Case Manager may specify depending on the urgency of the matter.
- 8.4. The Case Manager must forward a copy of the written Statement to the Complainant without delay after receipt.
- 8.5. Should the Respondent submit an incomplete Statement or fail to submit the Statement in writing within the time-limit provided by s. 8.3, the Case Manager will initiate the establishment of the Adjudication Panel, without further delay and without any attempt to settle amicably, and will notify the Parties accordingly.

9. SETTLEMENT OF THE COMPLAINT

- 9.1. The Case Manager will invite the Complainant and the Respondent to settle their dispute through amicable conciliation by convening a meeting with a neutral third party (the "Facilitator"). The Case Manager may act as the Facilitator if, in their opinion, that is appropriate.
- 9.2. The Parties shall cooperate with the Facilitator and attempt to resolve the dispute until either Party terminates the process and/or the Facilitator decides that additional discussions are not likely to result in a settlement.
- 9.3. In the event a settlement is not reached, the Facilitator will not create any report or record of the discussions between the Parties and the content of the discussions

between the parties and with the Facilitator shall remain confidential unless both Parties agree to waive confidentiality.

- 9.4. The Facilitator is not permitted to be a member of the Adjudication Panel.
- 9.5. In an urgent case or when circumstances require, the Case Manager in their sole discretion may direct that the matter proceed directly to a Complaint hearing without referring the matter to a Facilitator.

10. ADJUDICATION PANEL

- 10.1. Within ten (10) Working Days of receipt of the Notice of Complaint, the Case Manager will establish an Adjudication Panel in the following manner:
 - The Case Manager will appoint a Chairperson they deem appropriate to hear the Complaint;
 - The Chairperson will decide, in their sole discretion, whether to hear the Complaint as the sole member of the Adjudication Panel, or to establish a panel with two additional members deemed fit; and,
 - The Case Manager will provide copies of all documents provided by the Parties in connection with the Complaint to the Adjudication Panel.
- 10.2. The Adjudication Panel must be satisfied that they can freely and independently adjudicate the Complaint. If any member of the panel believes they would be Biased or unable to decide in an impartial manner for any reason, they must identify this to the Chairperson or, in the case the Chairperson is unable to act, to the Case Manager, and upon providing such notice, the Case Manager or Chairperson will appoint another panel member in their place.
- 10.3. Allegations of Bias against a member of an Adjudication Panel by a Party must be raised as soon as they are aware of the potential conflict.

11. PROCEDURES FOR THE COMPLAINT HEARING

- 11.1. The Adjudication Panel shall set a time for the hearing of the Complaint, making best efforts to accommodate all parties with expedient timing.
- 11.2. The Complainant bears the burden of proof and must prove, on a balance of probabilities, that one of the grounds enumerated in s.4.1 applies to the Complaint.
- 11.3. The Adjudication Panel shall govern the hearing by such procedures as it deems appropriate, including rules of evidence, and has ancillary authority to determine all procedures not specifically outlined in this Policy, provided that the following directives are applied
 - The Complaint shall be heard as quickly as reasonably possible, having regard to the nature of the dispute, and the circumstances of the case;

- The Adjudication Panel shall hear the Complaint, and a majority in favour of the same result shall be sufficient to affect a decision in favour of a result;
- Each Party shall have the right to be represented at the hearing;
- Copies of any written documents which any of the Parties would like the Adjudication Panel to consider shall be provided to the Panel, and to all Parties, within the time limits established the Adjudication Panel, should such documents be required by the Adjudication Panel;
- The Complaint may proceed on the basis of written submissions and documentation, provided all Parties are given a reasonable opportunity to present their written submissions to the Adjudication Panel, to review the written submissions of the other Parties and provide a written reply and statement;
- The Adjudication Panel may direct that any other person or party participate in the hearing of the Complaint, as a Party or otherwise;
- To facilitate expediency and cost reduction, a hearing either by way of written submissions, or via telephone or video conference is to be preferred with such safeguards as the Adjudication Panel considers necessary to protect the interests of the Parties;
- There shall be no recording of hearings conducted via telephone, by video conference, or in person, either by the Adjudication Panel or by the participants; and,
- Unless otherwise agreed by the Parties, and to the extent that is possible, there shall be no communication between Adjudication Panel members and the Parties except in the presence of, or by copy to the other Parties.

12. COMPLAINT HEARING DECISION

- 12.1. After hearing and/or reviewing the Complaint, the Adjudication Panel will determine whether the Complaint is valid and what action should be taken. Within fourteen (14) days of the conclusion of the hearing of the Complaint, the Adjudication Panel shall provide a written decision, with reasons, to all Parties, the Case Manager, and SSNS.
- 12.2. In exceptional circumstances, at the discretion of the Chairperson, the Adjudication Panel may issue a verbal or summary decision soon after the conclusion of the hearing of the Complaint, with written decision with reasons pursuant to s. 12.1 to follow within fourteen (14) days.
- 12.3. The decision will be considered a matter of public record unless determined otherwise by the Adjudication Panel.

13. SANCTIONS

- 13.1. The Adjudication Panel may issue an order that:
- o Upholds the original Decision;
 - o Reverses the original Decision; or,
 - o Substitutes their own Decision if appropriate.
- 13.2. The Adjudication Panel may apply any of the following disciplinary sanctions, alone or in combination, in the appropriate circumstances:
- o Verbal or written reprimand;
 - o Require a verbal or written apology;
 - o Service or other contribution to SSNS;
 - o Removal of certain privileges;
 - o Suspension from certain teams, events, and/or activities;
 - o Suspension from all SSNS activities for a defined period of time;
 - o Withholding of prize money or awards;
 - o Payment of the cost of repairs for property damage;
 - o Suspension of funding from SSNS or from other sources;
 - o Expulsion from SSNS;
 - o Any other sanction deemed appropriate and reasonable by the Adjudication Panel.

14. REFERENCE TO OTHER AUTHORITIES

- 14.1. Where the Case Manager or Chairperson of the Adjudication Panel believes that a person or persons whose conduct is the subject of a Complaint may be guilty of a criminal offence, that person shall refer the matter to the appropriate authority forthwith and, where appropriate, adjourn the hearing of the Complaint pending resolution.

15. LIABILITY DISCLAIMER

- 15.1. Except in cases of willful misconduct, the Adjudication Panel and the Case Manager will bear no liability in respect of either of the Parties for any act or omission in connection with the resolution of a Complaint in accordance with the policies of SSNS.
- 15.2. The Case Manager and the members of the Adjudication Panel may not be called as witnesses during any appeal or before any court of competent jurisdiction, including with respect to costs.

- 15.3. No action or proceeding may be brought against SSNS or its Members in respect of a Complaint, unless SSNS is failing or refusing to comply with the provisions regarding appeals or dispute resolution as provided in the policies of SSNS.

APPENDIX A – CHART OF TIMELINES

This table is intended as a guide to establish reasonable time limits in processing Complaints. Each case having a different degree of urgency or complexity, it is appropriate to provide some flexibility; each Complaint launched must be completed in time for justice to be done.

The steps outlined in the table below may overlap and are not necessarily successive. Some steps will begin before the previous one ends. In some urgent cases, it may even be that certain steps can be consolidated into one. Timelines in the table below are for illustrative purposes only.

Step	Section	Days since Filing of Complaint	Timelines For Each Step
Filing of Notice of Complaint	5	Nil	15 days from the day on which the Complainant was advised of the Decision or the conduct which is the subject of the Complaint occurred
Initial Screening of Complaint	7.3	5	5 working days from the receipt of Notice of Complaint and related documents
Notice of Complaint transmitted to the Respondent	8.1	3	1 working day from the completion of the initial screening
Statement of the Respondent	8.3	8	5 working days from the date the Notice of Complaint was provided (unless otherwise specified by the Case Manager)
Amicable Settlement of the Complaint	9	-	Upon receipt of the Statement
Establishment of the Adjudication Panel	10.1	10	10 days following the receipt of the Notice of Complaint
Hearing	11.2	As Agreed	At the date set by the Adjudication Panel
Oral or Summary Decision	12.2	As Required	As required and depending on urgency
Written Reasons	12.1	Based on date of hearing	14 working days after the end of the hearing

APPENDIX B – SAMPLE NOTICE OF COMPLAINT FORM

Date:

DD MM YYYY

Complainant

Name:

Address:

Telephone (home):

Telephone (office):

Telephone (cell.):

Email:

Date of birth:

DD MM YYYY

Representative of the Complainant *(if applicable)*

Note: An adult representative is mandatory for any Complainant who is a minor in the province where the proceedings are held.

Name:

Address:

Telephone (home):

Telephone (office):

Telephone (cell.):

Email:

Complaint

What Decision or action do you wish to file a complaint regarding?

Why do you think the Decision is wrong or unfair/the actions were inappropriate?

When did the Decision/Action occur?

DD MM YYYY

Respondent

Who made the Decision/committed the action that you wish to file a complaint regarding?

Grounds

Please provide:

1. Grounds for the Complaint (arguments); and
2. Summary of the evidence that supports these grounds (documents, pictures, rules and by-laws, audio-visual material, etc.)

Witness(es)

For each witness, please provide the following information (if there is more than one witness, please attach the information to the form):

Name: _____

Telephone1: _____

Telephone2: _____

Email: _____

Summary of evidence to be provided by this witness:

Recourse

What measure or Decision do you ask Speed Skate Nova Scotia to take or make to correct the situation?

Exemption

If the Decision was rendered/Action occurred more than 15 days ago, why are you filing this Notice of Complaint form beyond the 15 days time limit as provided by SSNS's Dispute Resolution Policy (Section 5)?

Signature

Signature: _____

Name (print): _____

Function/Title: _____

Date: _____

DD MM YYYY

APPENDIX C – SAMPLE FORM FOR RESPONDENT’S STATEMENT

Date:

DD MM YYYY

Respondent

Name:

Address:

Telephone (home):

Telephone (office):

Telephone (cell.):

Email:

Date of birth:

DD MM YYYY

Representative of the Respondent (if applicable)

Note: An adult representative is mandatory for any Respondent who is a minor in the province where the proceedings are held.

Name:

Address:

Telephone (home):

Telephone (office):

Telephone (cell.):

Email:

Explanation

Please provide:

- 1. Explain the Decision/Actions being Complained of; and
- 2. Summary of the evidence that supports this explanation (documents, pictures, rules and by-laws, audio-visual material, etc.)

Witness(es)

For each witness, please provide the following information (if there is more than one witness, please attach the information to the form):

Name:

Telephone1:

Telephone2:

Email:

Summary of evidence to be provided by this witness:

Signature

Signature:

Name (print):

Function/Title:

Date:

DD

MM

YYYY