

National High-Performance Program and Sport Canada Carding Selection Appeals Process

Scope and Application of this Policy

1. This appeal process provides Athletes with a fair, affordable, and expedient appeal process regarding National High-Performance Program and Sport Canada carding nomination decisions.
2. This appeal process does not apply to any Tennis Canada decisions other than those specified in Section 1 immediately above, and specifically does not apply, without limitation, to decisions made under Tennis Canada's Safe Sport Code of Conduct or to decisions related to the application of the Universal Code of Conduct to Prevent and Address Maltreatment in Sport (UCCMS) made by the Office of the Sport Integrity Commissioner (OSIC), the Director of Sanctions and Outcomes, the Sport Dispute Resolution Centre of Canada (SDRCC)'s Safeguarding Tribunal or any other competent instance within the Abuse-Free Sport program.

Timing of Appeal

3. Unless otherwise indicated at the time that a decision is communicated, Athletes who wish to appeal a decision have seven (7) days from the date on which they received notice of the decision to submit to Tennis Canada's Director, High Performance Programs and Administration the following:
 - a. Notice of the intention to appeal
 - b. Their contact information
 - c. Name of the Respondent and any Affected Parties, when known to the Appellant
 - d. Date the Appellant was advised of the decision being appealed
 - e. A copy of the decision being appealed, or description of the decision if a written document is not available
 - f. Grounds and detailed reasons for the appeal
 - g. All evidence that supports these grounds
 - h. Requested remedy or remedies
4. An Athlete who wishes to initiate an appeal beyond the seven (7) day period may only do so if exceptional circumstances prevented them from filing their appeal within the deadline indicated in Section 3 above. Any such Athlete must provide a written request stating the reasons for which they are seeking an exemption. The decision to allow, or not allow an appeal outside the seven (7) day period will be at the sole discretion of Tennis Canada's Director, High Performance Programs and Administration.

Grounds for Appeal

5. A decision cannot be appealed on its merits alone or because an Athlete does not like or agree with a decision. An appeal may only be heard if there are sufficient grounds for appeal. Sufficient grounds include Tennis Canada:
 - a) Made a decision that it did not have the authority or jurisdiction to make (as set out in Tennis Canada's governing documents);
 - b) Failed to take into account information that was relevant to the final decision or took information into account that was irrelevant to the final decision;
 - c) Failed to follow its own procedures (as set out in Tennis's governing documents); or
 - d) 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);

6. The Athlete must demonstrate, on a balance of probabilities, that Tennis Canada made a procedural error as described in Section 5 of this Policy and that this error had a material effect on the decision.
7. Notwithstanding any other provision in this appeal process, by agreement between the Athlete and Tennis Canada, the appeal process foreseen in this appeal process may be bypassed, and the appeal may be heard directly before the SDRCC, provided that the Athlete has filed their appeal within the deadline indicated in Section 3 above. Should the Parties agree to have the appeal heard directly before the SDRCC, the Canadian Sport Dispute Resolution Code will apply, and the procedures indicated below in this Policy will not be applied.

Dispute Resolution

8. Unless all the Parties agree otherwise or, if, in the circumstances, there is insufficient time, the Parties may first attempt to resolve the appeal through early resolution facilitation (i.e., mediation) before the SDRCC and prior to the matter being adjudicated. The early resolution facilitation process shall be conducted pursuant to the Canadian Sport Dispute Resolution Code.
9. Should the dispute not be resolved through the SDRCC's early resolution facilitation process for any reason, the steps indicated immediately below shall be followed, unless the Parties agree to bypass the internal appeal process and have the matter heard in arbitration directly before the SDRCC as provided for in Section 7.

Screening of Appeal

10. Upon receipt of an appeal, Tennis Canada's Director, High Performance Programs and Administration will appoint an 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 (Sections 1-2)
 - b) To determine if the appeal was submitted in a timely manner (Sections 3 and 4)
 - c) To decide whether there are sufficient grounds for the appeal (Section 5)
11. 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. Any such decisions rendered by the Appeal Manager may be appealed to the SDRCC pursuant to the Canadian Sport Dispute Resolution Code.
12. If the Appeal Manager accepts an appeal because it falls under the scope of this Policy, there are sufficient grounds and it was submitted in a timely manner, the Appeal Manager will notify the Parties of their decision in writing and will follow the steps described hereunder.

Appointment of Appeal Panel

13. If an appeal is accepted, the Appeal Manager will appoint an Appeals Committee which shall consist of a single member to hear the appeal. However, at the discretion of the Appeal Manager, an appeal panel composed of three members 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.

14. When appointing the appeal panel, the Appeal Manager must select individuals who are impartial, free from any real or perceived conflict of interest (and who shall remain so until a final decision has been rendered or the proceedings have otherwise finally terminated), and who do not have any direct relationship with any of the Parties. Although not a strict requirement, the Appeal Manager should attempt to appoint individuals to the appeal panel who have a legal background and who understand the sport of tennis. When justified by the circumstances, the Appeal Manager may appoint individuals to the appeal panel who have specific areas of expertise that would assist in resolving the matter.

Determination of Affected Parties

15. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage Tennis Canada's Director, High Performance Programs and Administration. The Appeal Manager may determine whether a Party is an Affected Party in their sole discretion.

Procedure for Appeal Hearing

16. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager, in collaboration with the Appeals Committee, shall determine the format under which the appeal will be heard.
17. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
18. 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, a hearing based on documentary submissions alone, or a combination of these methods. Irrespective of the format of the hearing, the hearing will be governed by the procedures that the Appeal Manager and the Appeals Committee deem appropriate in the circumstances, provided that:
 - a) The hearing will be held in a timely manner 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 appeal panel consider will be provided to all Parties in advance of the hearing;
 - d) The Parties may be accompanied by a representative, advisor, translator, transcription services, or legal counsel at their own expense;
 - e) The Appeals Committee 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 Appeals Committee may exclude any evidence filed by the Parties that is unduly repetitious or otherwise an abuse of process. The Appeals Committee shall otherwise apply relevant and applicable evidentiary rules in relation to the admissibility and weight given to any evidence filed by the Parties
 - g) Nothing is admissible in evidence at a hearing that:
 - i. would be inadmissible in a court by reason of any privilege under the law of evidence; or
 - ii. is inadmissible by any statute.
 - h) Any Affected Party shall be permitted to make submissions and file evidence before the Appeals Committee. The Appeals Committee's decision is binding on any Affected Party
 - i) The decision to uphold or reject the appeal will be by a majority vote of the Appeals

Committee members, except in cases where the panel consists of a single member.

19. In fulfilling its duties, the Appeals Committee may obtain independent advice.

Appeal Decision

20. The Appeals Committee shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the Appeals Committee will have no greater authority than that of the original decision-maker. The Appeals Committee may decide to:
- a) Reject the appeal and confirm the decision being appealed;
 - b) Uphold the appeal, in whole or in part, and refer the matter back to the initial decision-maker for a new decision;
 - c) Uphold the appeal, in whole or in part, and vary the decision;
 - d) Determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, may be assessed against any Party. In assessing costs, the Appeals Committee will take into account the nature and amount of the costs, the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources.
21. The Appeals Committee's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and Tennis Canada. Where necessary due to time constraints, the Appeals Committee may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter.
22. Any decision rendered pursuant to this appeal process shall apply automatically to and must be respected by Tennis Canada and its Members.
23. Records of all decisions will be maintained by Tennis Canada and its Members in accordance with their respective privacy policies.
24. The Appeals Committee's decision is final and binding on the Parties, subject to their right to appeal the decision before the SDRCC in accordance with the Canadian Sport Dispute Resolution Code. Notwithstanding any provision to the contrary in the Canadian Sport Dispute Resolution Code, appeals must be filed with the SDRCC within 7 days of receipt of the appealing Party's receipt of the Appeals Committee's decision.

Timelines

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

Confidentiality

26. The appeals process is confidential and involves only the Parties, the Appeal Manager, the Appeals Committee, and any independent advisors to the Committee. Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.
27. Any failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Individual(s) in accordance with Tennis Canada's relevant and applicable policies.

Final and Binding

28. No action or legal proceeding will be commenced against Tennis Canada or Individuals in respect of a dispute unless Tennis Canada has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.

Privacy

29. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Tennis Canada's Privacy Policy.
30. Tennis Canada or any of its delegates pursuant to this Policy (i.e., Appeal Manager, Appeals Committee), shall comply with Tennis Canada's Privacy Policy in the performance of their services under this Policy.

Definitions

31. Terms in this appeal process are defined as follows:
 - a. **Affected Party** - Any individual who may be affected by a decision rendered under the appeal process and who may have recourse to an appeal in their own right under this appeal process.
 - b. **Appellant** – The Party appealing a decision pursuant to this Policy.
 - c. **Appeal Manager** – An individual appointed by Tennis Canada who may be any staff member, committee member, volunteer, director, or an independent third party, to oversee this appeal process. The Appeal Manager will have responsibilities that include, but are not limited to, the decision-making authority empowered by this Policy.
 - d. **Athlete** – an individual who is an Athlete participant in Tennis Canada who is subject to the policies of Tennis Canada
 - e. **Days** – calendar days¹
 - f. **Member**: Refers to the provincial/territorial organizations that are admitted as Members of Tennis Canada per Tennis Canada's By-laws.
 - g. **Parties** – the individuals involved in an appeal, which include the Appellant, Respondent, and any Affected Party.
 - h. **Respondent** – The Party responding to the appeal.

¹ For the purpose of calculating deadlines, the following shall apply: the day of the act is not included in the calculation (i.e., the date of receipt of a decision is not Day 1); instead, the deadline would start on the day following receipt of the decision and would expire at midnight (in the location of the individual seeking to file an appeal) on the last day of the period. If the end date is a Saturday, a Sunday or a legal holiday, the period runs until the next day that is not a Saturday, a Sunday or a legal holiday.