

Shooting Federation of Canada



Policy for Appeal of SFC decisions

Approved by:

Board of Directors / Executive Committee _____ May 26, 2014
Date

Posted to the SFC Website _____
Date

Scheduled Year of Review: 2016

Note Policies will be reviewed on an as needed basis or every two year cycle whichever comes first.

The Shooting Federation of Canada at its option, may change, delete, suspend, or discontinue parts or the policy in its entirety, at any time without prior notice. Any conflict between policies or conflict between French and English versions of the policy should be brought to the immediate attention of SFC - Executive committee (EC). EC will either review and revise the conflicting policies or assign a committee or individual to do so.

Once approved, this version of the policy supersedes all previous policies.

1 Appeals

1.1 Purpose

This policy is intended to provide an avenue to address policies, actions and decisions of the Shooting Federation of Canada. The policy provides a procedure for individuals to seek redress.

1.2 General Information

SFC: Shooting Federation of Canada

Appeal: a position taken which is in opposition to a policy, procedure or practice of the Federation or its committees.

Time line: days referred to are all to be considered as working days unless otherwise so noted.

Time line deadline: if missed, the issue will not be heard

TAC: Tripartite Appeal Committee

Conflict of Interest: see SFC policy

1.3 SCOPE OF APPEAL

- 1.3.1 Any member of SFC who is affected by 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 SFC or its Board of Directors, or any Section have the right to appeal that decision, provided sufficient grounds exist for such an appeal, as set out in Section 1.2;**
- 1.3.2 Without limiting the scope of section 1.1, this appeal policy will NOT apply to decisions relating to:
- 1.3.2.1 Doping offences, which are dealt with under the Canadian Policy on Doping in Sport and the Canadian Doping Control Regulations;
 - 1.3.2.2 The technical rules of SFC, as set out by the most current ISSF rulebook;
 - 1.3.2.3 Disciplinary matters arising during events organized by entities other than SFC, which are dealt with under the policies of such other entities,
 - 1.3.2.4 Criminal offences for which the Appellant(s) is/are seeking a criminal conviction;
 - 1.3.2.5 Commercial matters for which another appeal process already exists under the applicable law or contract;
 - 1.3.2.6 Matters of employment;
 - 1.3.2.7 Volunteer appointments and the withdrawal or termination of those appointments;
 - 1.3.2.8 Matters of operational structure, committees, staffing, employment or volunteer opportunities;
 - 1.3.2.9 Commercial matters;
 - 1.3.2.10 Matters of budgeting and budget implementation;
 - 1.3.2.11 Selection criteria, quotas, policies and procedures established by entities other than SFC. For example: The Athlete Assistance Program policies and procedures established by Sport Canada;
 - 1.3.2.12 Policy and procedures established by any other agency, association or organization external to SFC;

- 1.3.2.13 Disputes arising within competitions which have their own appeal procedures;
- 1.3.2.14 Placement of individual members on any SFC Team,
- 1.3.2.15 Any policy, practice, or decision of the SFC that is currently under consideration of this policy or under consideration of an Arbitration Board;
- 1.3.2.16 Any decisions made under Section 6 of this Policy.

1.3.3 Exclusionary Conditions:

Application: Not every decision may be appealed. Decisions may only be appealed on procedural grounds where it has been demonstrated that the Respondent did one or more of the following:

- a) Made a decision for which it did not have authority or jurisdiction as set out in the Respondent's governing documents.
- b) Failed to follow procedures as laid out in the bylaws or approved policies of SFC.
- 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 is unable to consider other views or that the decision was influenced by factors unrelated to the substance or merits of the decision.

1.4 Procedure/timelines

If an individual determines that she/he wishes to appeal a decision made which is consistent with article 3, his/her actions must adhere to the following levels of escalation and be submitted in the identified timelines on the approved forms. Failure to do so will invalidate the appeal.

1.4.1 Level I:

Appellant presents a formal objection to the Respondent consistent with SFC timelines and forms (see Appendix A and B).

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- 1.4.1.1 Document AP-1 must be completed and submitted to the SFC office within fourteen (14) calendar days (excluding statutory public holidays) of the appellant becoming reasonable aware of the desire to seek redress. Retaining consistency with ISSF procedures, a fee of \$50.00 must be attached to form AP-1. (see appendices of this document) No documents or procedures will be processed unless the appeal is presented on the required form (AP-1) with the fee attached.
- 1.4.1.2 If the Appellant is successful, this fee shall be returned. If unsuccessful, the fee will be retained by the SFC.
- 1.4.1.3 Within two (2) working days of receipt of form AP-1 and attached fee, the SFC office will notify the appellant of receipt of same and will forward the information package (AP-1), via registered mail, to the Respondent. Office staff will notify the Respondent named in AP-1 as well as the SFC president and SFC executive members for information only purposes.
- 1.4.1.4 The SFC office will develop a file to ensure continuity of information.
- 1.4.1.5 Within fourteen (14) calendar days of reception of the completed form AP-1 with fee attached, the respondent should contact the Appellant to clarify information and will respond with a written attachment to form AP-1 that will be returned to the SFC office, via registered mail, and a copy forwarded to the appellant with a further copy maintained in the SFC office file.

1.4.2 Level 2:

If the Appellant rejects the Respondent's response and determines to pursue the issue, the appellant must adhere to the following timelines and procedures.

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- 1.4.2.1 The Appellant has fourteen (14) calendar days from receipt of the written response of the Respondent in which to take further action.
- 1.4.2.2 Any actions must include the submission of form APP-1 (Appendix C). Form APP-1 will be submitted with a protest fee of \$150.00 CAN attached. If the appellant is successful, this \$150.00 fee shall be returned. If unsuccessful, the fee shall be retained by SFC.
- 1.4.2.3 Within two (2) working days of completed form APP-1 with fee attached being received, office staff shall refer the issue to the President as information for the SFC executive.
- 1.4.2.4 The SFC president will call for the formation of a Tripartite Appeal Committee.
- 1.4.2.5 If the issue is referred to The Tripartite Appeal Committee, policy procedures 5 will be utilized as the appropriate methods.

1.5 Tripartite Appeal Committee (TAC)

1.5.1 Timeline:

The committee will be formed within five (5) working days after information is received by the SFC Executive Committee pursuant to Article 4.2, at the request of the President. The committee will issue a report within fifteen (15) days after its first hearing. Decisions of the Tripartite Appeal Committee are final and binding.

1.5.2 Composition

- 1.5.2.1 The (TAC) will be comprised of three individuals who meet the constraints of Article C below;
- 1.5.2.2 *The (TAC) will consist of one person nominated by the Appellant(s), one person nominated by the Respondent(s) and the third person, who shall act as chairperson of the Panel appointed by the President. The expectation is that the chair appointee should be a member of Executive. If it is not possible to appoint a member of Executive, then an outside party shall be appointed upon approval of Executive; (see constraints of Article C below)

1.5.3 Constraints of membership on the (TAC) panel

All three members of the (TAC) must be nominated respecting the following conditions:

- 1.5.3.1 Each member must have no significant relationship with the affected parties;
- 1.5.3.2 Each member must have no involvement with the decision being appealed;
- 1.5.3.3 Each member must be free from any actual or perceived bias or conflict of interest. Note: Being a member of the Appellant(s)' or the Respondent(s)' "peer" group should not in itself constitute bias or conflict of interest.)
- 1.5.3.4 Each member will make a public declaration in writing to the SFC Executive Council in regards to his/her compliance with the above constraints;

1.5.4 TAC preliminary proceedings:

- 1.5.4.1 Formation: the committee representatives will be contacted by the Chair within five (5) working days of the formation of the committee.
- 1.5.4.2 Information: As soon as they are appointed, the members of the (TAC) will be forwarded a copy of the appellant's appeal documents i.e. Document AP-1.
- 1.5.4.3 Screening: Within two working days of the formation of TAC, the Panel will determine whether there are appropriate grounds for the appeal, as set out in Sub-section 3 and 4 above; note: The TAC may reject outright any appeals that it concludes are false, vexatious or mean spirited,
- 1.5.4.4 Facts: The facts as alleged by the Appellant(s) in the Appeal Form shall be presumed to be correct unless such facts are, to the knowledge of one or more of the Panel members, clearly erroneous,
- 1.5.4.5 If the appeal is denied on the basis of insufficient grounds, or failure to meet timelines, the Appellant(s) and the Respondent(s) will be notified without delay in writing of this decision and its reasons;

1.6 Meetings:

1.6.1 Type:

The committee may choose several operating procedures such as:

- Face to face meeting
- Document meeting
- Teleconferences

1.6.2 Proceedings of TAC:

- 1.6.2.1 Within seven days of receiving the appellant('s) Appeal Form TAC will hold a preliminary conference to consider various preliminary issues, such as, but not limited to, the following ones:
- 1.6.2.2 Date and location of the hearing;
- 1.6.2.3 Timelines for exchange of documents;
- 1.6.2.4 Format of the appeal (written or oral submissions or a combination of both);
- 1.6.2.5 Clarification of issues under dispute;
- 1.6.2.6 Clarification of evidence to be presented to the Panel;
- 1.6.2.7 Order and procedure of hearing;
- 1.6.2.8 Any procedural matter;
- 1.6.2.9 Clarification of remedies sought;
- 1.6.2.10 Any other matter that may assist in expediting the appeal proceedings.
- 1.6.2.11 The preliminary conference can be held by conference-call or in person, depending on the circumstances: This decision is at the sole discretion of the TAC Chair and may not be appealed;
- 1.6.2.12 The participants in the preliminary conference shall be the Appellant(s), the respondent(s), their representatives, if any, the Panel;
- 1.6.2.13 The Chair shall arrange the preliminary conference and its precise date and time in concert with the participants;
- 1.6.2.14 The TAC Panel may delegate to its Chair the authority to deal with these preliminary matters;

- 1.6.2.15 A recording secretary, appointed staff person, shall act as secretary of the preliminary conference and shall confirm in writing to the Appellant(s) and Respondent(s) the appeal procedure established at this preliminary conference within two working days after the conclusion of such conference, and after having received the written confirmation approved by the TAC Panel.

1.7 Proceedings of Face to face / teleconference meeting

- 1.7.1 The appeal shall be heard as quickly as reasonably possible, having regard to the nature of the appeal, and the circumstances of the case;
- 1.7.2 All three members of TAC shall hear the appeal, but a majority in favor of the same result shall be sufficient to effect a decision;
- 1.7.3 Each party shall have the right to be represented at the hearing;
- 1.7.4 Copies of any written documents which any of the parties would like the TAC Panel to consider will have been attached to form AAP-1 and shall be provided to TAC members, and to all parties, within the time limits established by policy,
- 1.7.5 The appeal may proceed on the basis of written submissions and documentation as determined by policy;
- 1.7.6 If the decision of TAC 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 a party to the appeal in question and will be bound by its outcome;
- 1.7.7 TAC may direct that any other person or party participate in the appeal;
- 1.7.8 For sake of expediency and cost reduction, a hearing either by way of written submissions, via telephone conference or video conference is to be preferred with such safeguards as the TAC Panel considers necessary to protect the interests of the parties;
- 1.7.9 Unless otherwise agreed by the parties, there shall be no communication between TAC Panel members and the parties except in the presence of, or by copy to the other parties.

1.8 Procedure for Documentary Appeal

1.8.1 Where TAC has determined that the appeal will be held by way of written submissions, it will govern the appeal by such procedures as it deems appropriate provided that:

1.8.1.1 All parties are given a reasonable opportunity to provide written submissions to the TAC Panel, to review written submissions of the other parties, and to provide written rebuttal and argument;

1.8.1.2 The applicable principles and timelines set out in Section 10 are respected

1.9 Evidence that may be considered

1.9.1 As a general rule, the Panel will only consider evidence that was before the original decision-maker. At its discretion, the Panel may hear new material evidence that was not available at the time of the original decision.

1.9.2 Unless a party can prove that he/she couldn't possibly have been aware of a certain fact or argument at the time of the submission of his/her Appeal Form or Written Statement, no additional information or argument will be accepted from the Appellant(s) or Respondent(s) by the TAC Panel after the preliminary conference, other than that provided orally by witnesses at the hearing;

1.9.3 When a preliminary conference has taken place; the TAC Panel will determine if an additional element of proof should be admitted or rejected

1.10 Appeal Decision

1.10.1 Within five (5) working days of concluding the appeal, the Panel will issue its written decision, including reasons. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide:

1.10.1.1 To reject the appeal and confirm the decision being appealed;

1.10.1.2 To uphold the appeal and refer the matter back to the initial decision-maker for a revised decision;

1.10.1.3 To uphold the appeal and vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reason of lack of clear procedure, lack of time, or lack of neutrality;

1.10.1.4 To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all. When granting

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such costs, the TAC Panel shall take into account the outcome of the proceedings, the conduct of the parties and their respective financial resources;

1.10.1.5 A copy of this decision will be provided to each of the parties and to the SFC Executive Committee

1.10.2 In extraordinary circumstances, the TAC Panel may issue a verbal decision or a summary written decision, with reasons to follow, provided that the written decision with reasons is rendered within the timelines specified.

1.10.3 If the Appellant(s) believe that the TAC has made an error in denying the right to appeal a decision, the matter may be referred to Arbitration or Mediation, such Arbitration or Mediation to be administered under the ADRsportRED Code, as amended from time to time

Appendix A: Timeline expectations:

NOTE: this page is to be attached to all case files in order to ensure compliance with the timelines as noted in the procedures above.

1. Identification of issue by Appellant: ----- ____/____/____
: Date: X

2. Receipt of form AP-1: ----- ____/____/____
Number of days: (X + 14) _____
Notice to President: _____ ____/____/____

3. Referral to Respondent: _____ ____/____/____
Number of days: (X+14+2)

4. Response from Respondent: _____ ____/____/____
Number of days (X + 14+ 2 +14)

5. Date of response to Appellant: _____ ____/____/____

Total time expectation: the initial procedure is intended to bring the issue forward and to conclusion within a time period of 30 calendar days

Appendix B: FORM AP -1

The intent of FORM AP-1 is to provide a formal structure when submitting an appeal or protest of practice or policy as identified in the appeal policy.

The goal is to bring the issue forward to the SFC decision makers and seek to provide a solution through discussion and cooperative action.

This form is to be sent to the SFC office with all parts complete

NOTE: the time lines and requirements of FORM AP-1 are not open to change

XX

APPELLANT(S):

NAME: _____

ADDRESS: _____ PC: _____

CONTACT: TEL: _____ CELL: _____

EMAIL: _____

SFC MEMBERSHIP ID: _____

NB: if more than one appellant, include the above information for each appellant on the back of this lead page.

NOTE: protest fee attached: NO YES :

ISSUE UNDER PROTEST OR APPEAL:

POLICY: _____

PROCEDURE: _____

ACTION: _____

Attachment(s) required:

1. copy of the SFC policy document which is in question:
2. Copy of the SFC procedure that is in question.
3. Proof of the SFC action that is in question.

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Detailed reasons for the appeal: (NOTE: since only this one page will be read, please be as succinct and focused as possible.)

Date:

Signature:

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Remedy sought: (NOTE: since only this one page will be read, please be as succinct and focused as possible)

Date:

Signature:

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DECISION:

Date:

Signature:

APPENDIX: C: FORM AAP: 1

REQUEST TO PRESENT APPEAL TO SFC TRIPARTITE APPEAL COMMITTEE

Intent: This committee is intended to bring a final binding decision on policies, practices or actions that could not be resolved by the initial appeals procedure.

XX

APPELLANT(S):

NAME: _____

ADDRESS: _____ PC: _____

CONTACT: TEL: _____ CELL: _____

EMAIL: _____

SFC MEMBERSHIP ID: _____

NB: if more than one appellant, include the above information for each appellant on the back of this lead page.

NOTE: appeal fee attached (\$150.00 per appellant who is party to this appeal): NO YES

REPRESENTATIVE DECLARED:

NAME: _____

ADDRESS: _____

CONTACT INFORMATION: _____

DOCUMENTS ATTACHED

1. REPLY OF APPEAL ON FROM AP-1
2. ANY DOCUMENTS IN ADDITION TO THOSE ATTACHED TO ORIGINAL APPEAL

DECISION BEING APPEALED:

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POSITION STATEMENT: please state clearly the reasons for rejecting the position of the original appeal.

NOTE: since only this one page will be read, please be as succinct and focused as possible.

Date:

Signature:

REMEDY SOUGHT:

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Please clearly identify the remedy. (Since only this one page will be read, please be as succinct and focused as possible)

Date:

Signature:

RESPONSE OF TRIPARTITE APPEAL COMMITTEE:

Date:

Signature: