FREESTYLE CANADA
APPEAL POLICY

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Scheduled review date	TBC
Replaces and/or amends	Replaces Freestyle Canada Appeal Policy approved June 15, 2024
Approved by and date	FC BOD April 24, 2025
Appendix(-ces) to this Policy	-

Purpose

1. This *Appeal Policy* ("Policy") provides Individuals with a fair, affordable, and expedient appeal process.

Scope and Application of this Policy

2. This Policy applies to all Individuals. However, it does not apply to appeals of any decision related to the application of the UCCMS made by the Office of the Sport Integrity Commissioner (OSIC), Abuse-Free Sport's Director of Sanctions and Outcomes, the CCES, the SDRCC's Safeguarding Tribunal or any other competent instance within the Abuse-Free Sport and/or CSSP program, as applicable.

3. Subject to Section 2, any Individual who is affected by a decision taken by Freestyle Canada[19] or a Member (as applicable) specifically with regard to that Individual, including a decision by the Board, by any committee of the Board, or by any body or individual within Freestyle Canada or the Member (as applicable) who has been delegated authority to make decisions in accordance with Freestyle Canada or a Member's bylaws and governance policies (as applicable), shall have the right to appeal that decision provided that it is a decision that is subject to appeal pursuant to Section 4 of this Policy, that the conditions indicated in Sections 6 or 7 of this Policy (as applicable) have been satisfied, and provided that there are sufficient grounds for the appeal pursuant to Section 8 of this Policy.

4. This Policy **will apply** to decisions relating to:
    a) eligibility
    b) selection decisions and AAP nominations
    c) conflict of interest
    d) disciplinary decisions made pursuant to Freestyle Canada or a Member's relevant and applicable policies
    e) membership

[19] A separate document with term definitions that apply to all Freestyle Canada Policy is found online and in the Freestyle Canada Safe Sport Policy Manual.

5. This Policy **will not apply** to the following decisions relating to:
    a) Reported complaints that were managed by the OSIC or under the CSSP Rules, as applicable;
    b) Matters of general application such as amendments to Freestyle Canada or a Member's bylaws;
    c) Freestyle Canada or a Member's operational structure and committee appointments;
    d) Issues of budgets and budget implementation;
    e) Employment matters or matters of operational structure or staffing or volunteer leadership opportunities;
    f) Except as otherwise provided for in this Policy, decisions made by organizations other than Freestyle Canada or a Member, as applicable, such as the Canadian Olympic Committee (COC), the Canadian Paralympic Committee (CPC), the International Olympic Committee (IOC), the International Paralympic Committee (IPC), the International Ski Federation (FIS), or any other governing body;
    g) Selection criteria, quotas, policies and procedures established by entities other than Freestyle Canada or a Member;
    h) Substance, content and establishment of selection criteria for selection opportunities (e.g. team selection criteria, event participation selection criteria, athlete funding selection criteria);
    i) The Athlete Assistance Program (AAP) policies and procedures established by Sport Canada;
    j) Policy and procedures established by any other agency, association or organization external to Freestyle Canada or a Member;
    k) Infractions for doping offences, which are dealt with pursuant to the Canadian Anti-Doping Program, by the Canadian Centre for Ethics in Sport and the FIS;
    l) Contractual matters between Freestyle Canada and its staff or Members for which another dispute resolution process exists under the provisions of the applicable contract;
    m) Settlements negotiated pursuant to the *Dispute Resolution Policy*;
    n) Event location and scheduling decisions made by Freestyle Canada or a Member; or
    o) The content of the Freestyle Canada or a Member's policies, strategic plan, operational plan, governing documents

Timing of Appeal

6. Individuals who wish to appeal a decision have fourteen (14) days from the date on which they received notice of the decision[20] to submit to Freestyle Canada's Chief Executive Officer (or equivalent position of a Member) 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

[20] Freestyle Canada may notify decisions via the following means: email to the Individual's most recent email address that it has on file; publication on Freestyle Canada's website, or other electronic means that permit direct communication with the Individual, such as WhatsApp. In such circumstances, notification shall be deemed to have been received on the date that Freestyle Canada publishes notification of the decision on its website and/or, as applicable, the date on which the Individual is sent the decision via email or the other electronic means.

g) All evidence that supports these grounds
h) Requested remedy or remedies
i) An administration fee of five hundred dollars ($500), which will be refunded if the appeal is upheld

7. An Individual who wishes to initiate an appeal beyond the fourteen (14) day period may only do so if exceptional circumstances prevented them from filing their appeal within the deadline indicated in Section 6 above. Any such Individual 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 of the seven (7) day period will be at the sole discretion of the Appeal Manager.

Grounds for Appeal

8. A decision cannot be appealed on its merits alone or because an Individual (or Individuals) do not like or agree with a decision. 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); or
    d) Made a decision that was grossly unreasonable or unfair.

9. The Appellant must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in Section 8 of this Policy and that this error had, or may reasonably have had, a material effect on the decision or decision-maker.

Screening of Appeal

Internal Discipline Chair Decision – Members

10. A decision made by a Member's Internal Discipline Chair pursuant to the *Discipline and Complaints Policy* may be appealed before the Member's Appeal Panel in accordance with the terms of this Policy.

11. The Member shall appoint an Appeal Manager and shall follow the process outlined in Sections 21 and following of this Policy, modified and applied accordingly based on the circumstances.

External Discipline Panel Decision – Members

12. A decision made by a Member's External Discipline Panel pursuant to the *Discipline and Complaints Policy* may be appealed before the Member's Appeal Panel in accordance with the terms of this Policy.

13. The Member shall appoint an Appeal Manager and shall follow the process outlined in Sections 21 and following of this Policy, modified and applied accordingly based on the circumstances.

14. Any decision by the Member's Appeal Panel in relation to an appeal filed pursuant to Sections 10 and 12 above shall be final and shall not be subject to any further appeal before the SDRCC, unless the original Parties to the appeal seize the SDRCC on a fee-for-service basis.

Internal Discipline Chair Decision – Freestyle Canada

15. A decision made by Freestyle Canada's Internal Discipline Chair pursuant to the *Discipline and Complaints Policy* may be appealed to the Freestyle Canada Appeal Panel in accordance with the terms of this Policy.

External Discipline Panel Decision – Freestyle Canada

16. A decision made by Freestyle Canada's External Discipline Panel pursuant to the *Discipline and Complaints Policy* may be appealed to the Freestyle Canada Appeal Panel in accordance with the terms of this Policy.

Other Decisions

17. Any other Freestyle Canada decision relating to the matters indicated in Section 4 above may be appealed in accordance with Sections 21 and following of this Policy. Member decisions relating to the matters indicated in Sections 4(a)-(c) and (e) may be appealed in accordance with Sections 21 and following of this Policy, modified and applied accordingly based on the circumstances. Member decisions relating to the matters indicated in Section 4(d) may be heard as indicated in Sections 10-13. Where Freestyle Canada was not the decision-maker in any of the decisions made pursuant to Section 4, it shall have a right of appeal and may appeal the decision in accordance with this Policy.

18. Notwithstanding any other provision in this Policy, by agreement between the Parties, the internal appeal process **in relation to decisions made by Freestyle Canada only** may be bypassed, and the appeal may be heard directly before the SDRCC, where permitted by the SDRCC.

19. Except where an appeal proceeds before the SDRCC, Freestyle Canada or the relevant Member (as applicable) shall appoint an Appeal Manager and shall follow the process outlined in Sections 21 and following of this Policy, modified and applied accordingly based on the circumstances.

Dispute Resolution

20. For appeals filed pursuant to Sections 10, 12, 15, 16 or 17, the Parties may first attempt to resolve the appeal through the *Dispute Resolution Policy* once the notice of the appeal, the fee, and the information required pursuant to Section 6 has been received.

Screening of Appeal

21. Should the appeal not be resolved by using the *Dispute Resolution Policy*, Freestyle Canada or the Member will 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 (Sections 2-5)
    b) To determine if the appeal was submitted in a timely manner (Sections 6 and 7)
    c) To decide whether there are sufficient grounds for the appeal (Section 8)

22. 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.

23. 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

24. If an appeal is accepted, the Appeal Manager will appoint an appeal panel 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.

25. 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 freestyle skiing. 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

26. In order to confirm the identification of any Affected Parties, the Appeal Manager will engage Freestyle Canada or the Member (as applicable). The Appeal Manager may determine whether a Party is an Affected Party in their sole discretion.

Procedure for Appeal Hearing

27. The Appeal Manager shall notify the Parties that the appeal will be heard. The Appeal Manager, in collaboration with the appeal panel, 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.

28. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.

29. 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. The hearing will be governed by the procedures that the Appeal Manager and the appeal panel 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 appeal 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 appeal panel may exclude any evidence filed by the Parties that is unduly repetitious or otherwise an abuse of process. The appeal panel 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 or common law.
h) Any Affected Party shall be permitted to make submissions and file evidence before the appeal panel. The appeal panel'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 appeal panel members, except in cases where the panel consists of a single member

30. In fulfilling its duties, the appeal panel may obtain independent advice.

Appeal Decision

31. The appeal panel shall issue its decision, in writing and with reasons, within fourteen (14) days after the hearing's conclusion. In making its decision, the appeal panel will have no greater authority than that of the original decision-maker. The appeal panel 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 appeal panel 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

32. The appeal panel's written decision, with reasons, will be distributed to all Parties, the Appeal Manager, and Freestyle Canada or the Member (as applicable). In extraordinary circumstances, the appeal panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter.

33. Subject to Section 34 below, unless the matter involves a Vulnerable Participant, once the deadline to appeal to the SDRCC (where applicable), as indicated in the Canadian Sport Dispute Resolution Code, has expired, Freestyle Canada or the Member (as applicable) shall publish the outcome of the appeal on their website. Publication shall be limited to, where applicable, the provision(s) of any relevant policies that have been violated, the name(s) of the Individual(s) involved, the sanction(s) or order imposed, if any. Additionally, where Freestyle Canada acts as the Complainant under Section 16 of the *Discipline and Complaints Policy* and any decision issued pursuant to that Policy is appealed, only Freestyle Canada, and not the original Complainant, shall be identified as an involved Individual. However, notwithstanding the aforementioned, a Party, Freestyle Canada or a Member may make submissions to the appeal panel to request that all or part of a decision be

kept confidential.[21] Identifying information regarding Minors or Vulnerable Participants will never be published by Freestyle Canada or one of its Members. The appeal panel shall determine the length of time for which the aforementioned information is to be published.

34. If the appeal panel dismisses the appeal, the decision may only be published, as provided for in Section 30, with the Respondent's consent. If the Respondent does not provide such consent, the decision will be kept confidential by the Parties, the Appeal Manager, Freestyle Canada and the Member and shall be retained and discarded in accordance with the relevant and applicable privacy legislation. Failure to respect this provision may result in disciplinary action being taken pursuant to this Policy.

35. Other individuals or organizations, including but not limited to, Members, shall be advised of the outcome of any decisions rendered in accordance with this Policy.

36. Any decision rendered pursuant to this Policy shall apply automatically to and must be respected by Freestyle Canada and its Members.

37. Records of all decisions will be maintained by Freestyle Canada and its Members in accordance with their respective privacy policies.

38. The appeal panel's decision is final and binding on the Parties, subject to their right to appeal the decision before the SDRCC. Notwithstanding any provision to the contrary in the Canadian Sport Dispute Resolution Code, appeals must be filed with the SDRCC within 14 days of receipt of the appealing Party's receipt of the appeal panel's decision.

Timelines

39. 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 appeal panel may direct that these timelines be revised.

Confidentiality

40. The appeals process is confidential and involves only Freestyle Canada (Chief Executive Officer and relevant staff as determined by the Chief Executive Officer), the Parties, the Appeal Manager, the appeal panel, and any independent advisors to the panel, as well as a Member (if applicable). Once initiated and until a decision is released, none of the Parties will disclose confidential information to any person not involved in the proceedings.

41. Any failure to respect the aforementioned confidentiality requirement may result in disciplinary action being taken against the Individual(s) in accordance with Freestyle Canada or the Member's relevant and applicable policies.

Final and Binding

[21] The appeal panel shall allow the Parties to provide their position on any such request and shall render a decision on the request. Any such decision shall not be subject to appeal.

42. No action or legal proceeding will be commenced against Freestyle Canada, Members, or Individuals in respect of a dispute, unless Freestyle Canada or the Member (as applicable) has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in governing documents.

Privacy

43. The collection, use and disclosure of any personal information pursuant to this Policy is subject to Freestyle Canada's usual policies and practices regarding private and/or confidential information, or those of its Members, as applicable.

44. Freestyle Canada, its Members, or any of their delegates pursuant to this Policy (i.e., Appeal Manager, appeal panel) shall comply with Freestyle Canada's usual policies and practices regarding private and/or confidential information (or, where applicable, those of its Members) in the performance of their services under this Policy.