



Approved By: Board of Directors

Effective Date: June, 1997

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## Alberta Alpine Ski Association

### Policy Title

2.5 Dispute Resolution and Appeals

### Policy Objective

To provide a clear process for appeals and dispute resolution outside of AST Selection Criteria.

Membership in Alberta Alpine Ski Association (AASA) offers many benefits and privileges. It also entails responsibilities and obligations. All members of AASA are expected to comply with AASA by-laws, rules and policies (i.e. codes of conduct, selection criteria), fulfil contracts and agreements they have entered into, and abide by all AASA decisions which affect them.

### Definitions

For the purposes of this Policy, the following definitions apply:

- a. **Member** – means a member of a Member Club, who is in good standing with the Association. Includes all AASA member categories, as well as all individuals engaged in activities with AASA. This includes, but is not limited to, athletes, coaches, officials, volunteers, directors and officers.
- b. **Days** – in the context of the time by which an action must be complete, refers to total calendar days, irrespective of weekends or holidays.
- c. **Complainant** – refers to the Member who reports a complaint and is seeking redress.
- d. **Appellant** – refers to the Member who is appealing an AASA decision.
- e. **Respondent** – refers to the individual or body which is the subject of a complaint or whose decision is being appealed.

### Applicability

- (a) The process for appealing the selection procedure to the Alberta Ski Team (AST) is captured in Policy 3.1. and is outside the scope of this policy.
- (b) Any member who feels the staff of AASA have interpreted and/or acted on the criteria outlined in Policies 3.6 and 3.7 improperly will apply this policy to their concerns.
- (c) Any member who feels they have witnessed an act of gross misconduct or behaviour that breaches any components of the AASA Code of Conduct may file an official complaint through this Policy or the Whistle Blower Policy, 2.14.



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- (d) Internal club disputes are considered outside of the scope of this policy. AASA management will respect all sanctions handed down by club boards if the AASA President receives written notice of the sanctions.
- (e) In situations where complaints deal with suspected criminal behavior, legal authorities will be contacted immediately and their findings will supersede all other components of this Policy.

## **Procedure**

### **1. REPORTING A COMPLAINT**

Any individual subject to this policy may submit a written complaint to the President of the AASA, together with a brief written summary of the matters in dispute.

Within 3 days of receiving the written notice of the complaint and summary, the President shall determine whether the matters in dispute and the parties to the dispute are properly within the scope and application of this Policy. In the absence of the President, the next most senior member of the staff shall perform this function. This decision regarding jurisdiction is final and may not be appealed.

### **2. INDEPENDENT INVESTIGATION**

Depending on the nature of the reported complaint, the President may appoint an independent individual to conduct an investigation (the Investigator). If this is the case, the Investigator shall carry out the investigation in timely manner and at the conclusion of the investigation shall submit a written report to the President.

### **3. DISPUTE RESOLUTION COMMITTEE APPOINTED**

If the President, or designate, is satisfied that this Policy applies, within 5 days of having received the original notice of the complaint, or within 2 days of receiving the written report of the Investigator, if an investigation was carried out, the President shall forward the original notice of the complaint and/or report of the Investigator to the Board Chair. The Board Chair will appoint an ad hoc Dispute Resolution Committee (DRC), comprised of at least one other member of the AASA board of Directors. All DRC members shall have had no involvement with the complaint or the dispute, and shall be free from any other actual or perceived bias or conflict.

### **4. PRELIMINARY CONFERENCE**

As its first order of business, the DRC shall determine if the circumstances of the complaint warrant a preliminary conference. If this is the case, the preliminary conference shall be conducted by telephone. The issues that may be considered at a preliminary conference include:

- a) The format of the hearing, as the hearing may proceed by a review of documentary evidence, an in-person hearing or an oral hearing by telephone or a combination of these methods. The DRC, in coming to its decision regarding the format of the hearing, must ensure that the



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hearing process complies with the principles of natural justice and provides procedural fairness to all parties;

- b) timelines for the exchange of documents and the extent of disclosure required;
- c) clarification of issues in dispute;
- d) clarification of evidence to be presented to the DRC;
- e) order and procedure of the hearing;
- f) identification of witnesses; and
- g) Any other procedural matter which may assist in expediting the hearing.

If the DRC determines that a preliminary hearing is not required, it may decide to move directly to the hearing

## **5. PROCEDURE FOR HEARING**

Whether the hearing is by telephone conference, in person, or documentary, the DRC shall govern the hearing by such procedures as it deems appropriate and fair provided that:

- a) The hearing shall be held within 5 days of the President forwarding the complaint and/or report to the Board Chair;
- b) The parties involved shall be given a minimum of 3 days written notice of the date, time and place of the hearing;
- c) The parties shall receive a copy of the Investigator's report, where an investigation was carried out; to provide submissions to the DRC, to review submissions of the other parties, to provide rebuttal and to provide arguments;
- d) A quorum by majority vote, where the Chairperson of the DRC carries a vote;
- e) If the decision of the DRC may affect another party to the extent that the other party would have recourse to a hearing in their own right, that party shall become a party to the hearing in question;
- f) Any of the parties at the hearing may be accompanied by a representative or advisor, including legal counsel;
- g) The DRC may direct that any other person participate in the hearing;
- h) The applicable principles and timelines set out in Section 8 are respected.

## **6. EVIDENCE WHICH MAY BE CONSIDERED**

As a general rule, the DRC shall consider any evidence that is relevant to the matters in dispute. The normal rules of evidence will be relaxed. The DRC shall have authority to consider hearsay evidence provided the DRC gives to such evidence appropriate weight as might be reasonable in light of the circumstances of its inclusion.

## **7. THE DECISION**

- (a) Within 5 days of concluding the hearing, the DRC shall issue its written decision, with reasons. The DRC shall have no greater authority than the initial decision-maker. The DRC may decide:



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- (i) To uphold the complaint;
  - (ii) To deny the complaint;
  - (iii) To design a remedy that, in the opinion of the DRC, will resolve the dispute. However, in so doing the DRC is not authorized to change or alter any rule, criteria, policy, procedure or bylaw of the AASA that has been properly passed and implemented by the appropriate governing body. Such a remedy may include disciplinary sanctions consistent with those set out in the AASA Athlete Agreement;
  - (iv) To determine how costs of the hearing, excluding legal fees and legal disbursements of any of the parties, shall be allocated, if at all.
- (b) A copy of the decision shall be provided to each of the parties and to the President. This decision shall be binding on all parties to the dispute. Failure by any party to comply with a decision and remedy shall result in automatic suspension of membership in the Alberta and participation in the Team/Club, until such time as the decision and remedy are complied with.

## **8. TIMELINES**

If the circumstances of a complaint or a dispute are such that this policy will not allow a timely resolution of the matter, or if the circumstances of a complaint or a dispute are such that the matter cannot be resolved within the timelines dictated in this Policy, the DRC may direct that these timelines be revised.

## **9. DISPUTES AT COMPETITIONS OR WHERE THERE IS A CRITICAL LACK OF TIME**

- (a) Breaches of the Athlete Agreement, complaints regarding conduct and disputes involving an Athlete that arise during competitions, at events or in any situation where this Policy applies, but where there is no time to implement the process set out above, may be dealt with immediately by the Jury and in accordance with the International Competition Rules.
- (b) Further sanctions or remedies may be applied or imposed on the Athlete after the competition, event or activity. After the competition, event or activity the interim sanctions or remedies may be reviewed, at the option of the Athlete, by reporting a complaint to the President in accordance with this Policy.

## **10. CONFIDENTIALITY**

Where the dispute is of a highly sensitive nature, AASA shall keep all proceedings under this Policy confidential, except where disclosure is directed by the Board of Directors as part of the remedy to resolve the dispute, is required by law, or is in the best interests of the public.

## **11. LOCATION**

The hearing shall take place in the location designated by the Chairperson of the DRC, unless the DRC decides the hearing is to be held by way of telephone conference or unless, at the specific request of a party, a different location is mandated by the DRC as a preliminary matter.



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## **12. APPEALS PROCEDURE**

Except where otherwise provided, the decision of the DRC shall be final and binding.

### **Scope**

This dispute resolution policy applies to the Alberta Alpine Ski Association as an organization, including all individuals engaged in activities with or employed by Alberta Alpine Ski Association, including but not limited to: athletes, coaches, officials, volunteers, directors, officers, and team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel). Examples of disputes that may be dealt with under this Policy include, but are not limited to: disputes arising from alleged breaches of the AASA Athlete Code of Conduct, disputes relating to the implementation of the AASA Athlete Agreement, disputes relating to the disciplining of an Athlete at events and competitions, and disputes regarding the Athlete's right to compete at events and competitions.

### **Related Policies**

2.14 Whistle Blower

3.1 AST Selection Criteria

3.6 Limited Quota Competition

3.7 Out of Category Competition