



## Dispute Resolution Policy

### Scope

This policy provides direction for Ontario Sailing's participants and member organizations if they have a dispute with a decision of Ontario Sailing. The policy affords due process to resolving these disputes.

This policy does not apply to disputes relating to

- a) Matters of employment;
- b) Infractions for doping offences, which are dealt with pursuant to the *Canadian Policy on Doping in Sport* and the *Canadian Doping Control Regulations*;
- c) The racing rules of sailing, which must be resolved by procedures outlined in The Racing Rules of Sailing;
- d) Matters arising during events of any sort organized by entities other than Ontario Sailing, which are dealt with pursuant to the policies of these other entities.

### Policy

Ontario Sailing is committed to providing avenues for individuals associated with our organization to have opportunity to have decisions reviewed if they feel the situations requires a more advanced review and resolution. We strongly urge all participants and organizations to first approach our staff and volunteer Directors to look for timely and transparent communication regarding the concerns and potential need for resolution.

Should an initial conversation with Ontario Sailing fail to provide adequate resolution we support the principles of Alternative Dispute Resolution. We are committed to the techniques of negotiation, facilitation and mediation, appeal, and finally arbitration as effective ways to resolve disputes.

In the procedures associated with this policy are the steps for each problem solving technique. These steps are to be followed in the order listed to ensure an appropriate and progressive approach to dispute resolution.

*Board approved last: Sept 16 2019  
Review date: 2022*

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## Operational Procedures

### Negotiation

Ontario Sailing encourages all Members to communicate openly and to collaborate in using problem-solving and negotiation techniques to resolve their differences. In almost all cases a negotiated settlement is preferable to any outcome achieved through other dispute resolution techniques, and negotiated resolutions to disputes with and among Members are strongly encouraged.

### Facilitation and Mediation



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Opportunities for facilitation and mediation may be pursued at any point in a dispute within Ontario Sailing where it is appropriate and where the disputing parties agree that such a course of action would be mutually beneficial.

Where mediation is pursued, it will be done so in accordance with standard mediation practice using mediators who are acceptable to the parties.

### **Appeals**

#### Timing of Appeal

A Member who wishes to appeal a decision will have 5 Days from the date on which they received notice of the decision, to submit in writing notice of their intention to appeal, grounds for the appeal and a summary of the evidence that supports these grounds, to the Official. Any Member wishing to initiate an appeal beyond the period of 5-Days must provide a written request stating reasons for an exemption to the requirement of Paragraph 5. The decision to allow, or not allow an appeal outside the period of 5-Days will be at the sole discretion of the Official, and may not be appealed.

#### Grounds for Appeal

Not every decision may be appealed. Decisions may only be appealed, and appeals may only be heard, on procedural grounds. Procedural grounds are strictly limited to the Respondent's:

- a) Making a decision for which it did not have authority or jurisdiction as set out in Ontario Sailing governing documents;
- b) Failing to follow procedures as laid out in the bylaws or approved policies of Ontario Sailing; or
- c) Making a decision that was influenced by bias.

#### Screening of Appeal

Within 2 Days of receiving the notice and grounds of an appeal, the Official will determine whether there are appropriate grounds for the appeal to proceed as set out herein.

If the appeal is denied on the basis of insufficient grounds, the Appellant will be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the Official and may not be appealed.

#### Appeals Panel

If the Official is satisfied that there are sufficient grounds for an appeal, within 3 days of having received the original notice of appeal the Official will establish an Appeals Panel (hereafter referred to as the "Panel") as follows:

- a) The Panel will be comprised of three individuals who will have no significant relationship with the affected parties, will have had no involvement with the decision being appealed, and will be free from any other actual or perceived bias or conflict.
- b) The Official may designate one of the Panel appointees to serve as chairperson of the Panel. In the event the Official does not designate a Chairperson, the members of the Panel will select from themselves a Chairperson.

#### Preliminary Conference

The Panel may determine that the circumstances of the appeal warrant a preliminary



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Conference.

The matters that may be considered at a preliminary conference include:

- a) Format of the appeal (hearing by documentary evidence, oral hearing or a combination of both);
- b) Timelines for exchange of documents;
- c) Clarification of issues in dispute;
- d) Clarification of evidence to be presented to the Panel; order and procedure of hearing;
- e) Location of hearing, where the hearing is an oral hearing;
- f) Identification of witnesses; and
- g) Any other procedural matter that may assist in expediting the appeal proceedings.

The Panel may delegate to its Chairperson the authority to deal with these preliminary matters on behalf of the Panel.

### Procedure for the Hearing

Where the Panel has determined that the appeal will be held by way of oral hearing, the Panel will govern the hearing by such procedures as it deems appropriate, provided that:

- a) The hearing will be held within 14 days of the Panel's appointment.
- b) The Appellant and Respondent will be given 7 days written notice of the date, time and place of the hearing.
- c) A quorum will be all three Panel appointees.
- d) Decisions will be by majority vote, where the Chairperson carries a vote.
- e) If the decision of the Panel 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.
- f) A representative or advisor, including legal counsel, may accompany any of the parties.
- g) The Panel may direct that any other person participates in the appeal.

In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a telephone conference.

### Procedure for Documentary Appeal

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

- a) All parties are given a reasonable opportunity to provide written submissions to the Panel, to review written submissions of the other parties, and to provide written rebuttal and argument.
- b) The applicable principles and timelines set out with these procedures are respected.

### Appeal Decision

Within 7 days of concluding the appeal, the Panel will issue its written decision, with reasons. In making its decision, the Panel will consider the terms of reference and authority levels, which would have guided the original decision-maker. The Panel may decide:

- a) To reject the appeal and confirm the decision being appealed; or
- b) To uphold the appeal and refer the matter back to the initial decision-maker for a new



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decision; or

- c) To uphold the appeal and vary the decision but only 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; and
- d) To determine how costs of the appeal, excluding legal fees and legal disbursements of any of the parties, will be allocated, if at all.

A copy of this decision will be provided to each of the parties and to the Official.

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

### Timelines

If the circumstances of the dispute are such that this policy will not allow a timely appeal, or if the circumstances of the disputes are such the appeal cannot be concluded within the timelines dictated in this policy, the Panel may direct that these timelines be revised.

### Final and Binding Decision

The decision of the Panel will be final and binding on the parties and on all members of Ontario Sailing, subject only to Arbitration.

### **Arbitration**

In the event that a dispute persists after internal avenues of decision-making, negotiation, facilitation, mediation and/or appeals have been exhausted, the parties may pursue opportunities for independent arbitration.

Where such independent arbitration is pursued, it will be done so in accordance with standard arbitration practice using trained arbitrators who are acceptable to the parties

The parties involved in a dispute may also mutually agree to bypass internal avenues of dispute resolution and may directly pursue opportunities for independent arbitration.

Where a dispute is referred to arbitration, all parties to the original dispute will become parties to the arbitration. The parties to arbitration will enter into a written Arbitration Agreement that will specify the terms of the arbitration procedure.

*Last reviewed: Sept 16 2019*

*Operational procedures are not approved by the Board of Directors. Operational procedures are approved by the Executive Director.*