



SASK SPORT

DISPUTE RESOLUTION POLICIES AND PROCEDURES PROGRAM FREQUENTLY ASKED QUESTIONS

1. What is Dispute Resolution?

Dispute resolution is a process that occurs in many forms, including, resolution facilitation, mediation, mediation/arbitration and arbitration. In resolution facilitation and mediation, help is given to facilitate a resolution without rendering any kind of formal decision. In arbitration, the arbitrator considers the merits of both sides of the case then renders a decision. In mediation/arbitration the process starts with mediation and, if the dispute is not resolved, concludes by arbitration.

2. What are the two fundamental principles of natural justice, and why are they important for managing a dispute?

The two fundamental principles of natural justice must be respected: *the right to be heard* (the chance to present one's case, submit evidence and arguments, and to know and respond to allegations made by other parties) and *impartiality* (the decision is made by independent individuals, free from conflict of interest, and having considered all the evidence presented). The Dispute Resolution policy suite strongly adheres to these fundamental principles.

3. Why are Dispute Resolution policies and procedures mandatory for the membership?

Sask Sport believes that we should be proactive in making sport in Saskatchewan as safe as possible and welcoming for all participants.

Sask Sport believes that fair play extends beyond how athletes compete on the field and behave on game day; fair play also applies to how sport organizations operate fairly and equitably when conflict arises. Sask Sport works with its membership to provide good governance practices and policies that reduce the risk of conflicts and disputes.

Since Sask Sport's membership requires all active and affiliate members to have Respect in Sport, Dispute Resolution and Harassment/Abuse policies and procedures, there has been increased knowledge in these areas and more efficient practices developed.

4. Who developed the Dispute Resolution policies and procedures?

A “Work Team” comprised of Dispute Resolution committee volunteers, PSO representatives, and Sask Sport representatives worked alongside Sport Law & Strategy Group to develop and recommend updated, comprehensive, user-friendly policies and procedures.

The Sask Sport Board of Directors approved the revised Dispute Resolution policies and procedures at the November, 2015 Board meeting, along with the timeline for all active and affiliate members to have the new Dispute Resolution policy suite approved within their organization by no later than June 1, 2016.

5. What has been the impact of the policies and procedures?

Alignment of the policies has resulted in a consistent, more comprehensive approach that is common across all member organizations. As disputes are settled, there will not always be agreement amongst the participants on the resolution provided, but all parties should be satisfied that they have been heard through a fair and transparent process.

Sask Sport’s member organizations have worked towards creating the policies, resources and programs that they have in place today. This has resulted in the creation of a strong foundation for helping to identify and effectively deal with abuse, neglect, harassment and bullying in sport.

6. How are the Dispute Resolution policies implemented?

STEP 1: Policy documents are prepared Sask Sport has provided templates for each of the policy components on its website at www.sasksport.ca/member-services/policies-procedures/dispute-resolution/. Membership should become acquainted with the Dispute Resolution policy suite, and personalize the policy documents to include:

- contact information for filing a complaint or an appeal
- complaint reporting timelines
- appeal payment procedures

STEP 2: Policies approved and implemented

Personalized policy documents are then to be approved by PSO Boards; a Board motion to adopt the full component of policies and procedures will demonstrate that implementation is in place. A Dispute Resolution Policy Implementation Checklist is available to help guide you with policy implementation.

STEP 3: Sask Sport reviews finalized policies

Ensure to report to Sask Sport when you have the policy implementation requirements completed and please provide the board approved version of your organization’s new or updated policies. Following Sask Sport’s satisfactory review of the policy submission, a confirmation letter will be forwarded to the organization and the information will be kept on file with Sask Sport.

STEP 4: Policy awareness

Sask Sport recommends that PSOs generate awareness of the new policies to member clubs, leagues and teams.

7. What is required by an organization as proof of implementation to Sask Sport?

The following are required PSO submissions to Sask Sport that ensure policy compliance:

- Dispute Resolution Policy Completion Checklist - this checklist confirms that all conditions for the Dispute Resolution policy approval have been completed by the organization.
- A copy of each of the five, board approved, Dispute Resolution Policies.
- A signed copy of the meeting minutes or motion from the PSO Board meeting that verifies Board approval.

8. What if an organization wants to make some modifications to the policy templates provided?

Policy modifications are allowed, as long as the spirit and intent of the policies and procedures are not jeopardized. All policy changes must be documented and provided to Sask Sport in a format that displays the changes clearly. Sask Sport requests that organizations track all policy changes in a Microsoft Word version of the templates (available on the Sask Sport website at www.sasksport.ca/member-services/policies-procedures/dispute-resolution/) by using the “Track Changes” tool.

Sask Sport requests that documents are submitted with the “Track Changes” activated/visible, in order to cross reference the changes made. Sask Sport’s Provincial Sport Consultants are available to answer questions or to discuss potential policy changes.

9. How are the policies effectively enforced?

Sask Sport membership conditions require Active and Affiliate Members to have the five-part Dispute Resolution policy suite, including Harassment and Abuse definitions, policies and procedures within the organization’s Code of Conduct. The purpose of this membership condition was to place our members in a position to manage or mitigate discipline concerns, complaints, dispute resolution or appeals using recognized, fair and due process.

It is the PSO and District’s responsibility to promote the policies and oversee compliance within their respective organizations, and for the members to align and adhere to the policies. However, Sask Sport is in regular communication with its membership to ensure that they fully understand the policy suite and the available tools and resources. Sask Sport also conducts audits when necessary to investigate issues that may arise concerning PSO’s conditions of membership.

10. Why did Sask Sport partner with ADR Saskatchewan?

Since 2013, Sask Sport has contracted the Alternate Dispute Resolution (ADR) Institute of Saskatchewan to help manage complaints and concerns regarding the Saskatchewan sport system. Since ADR Saskatchewan’s involvement, fewer complaints have been made and there has been positive response from all parties engaged regarding the process, experience and outcomes.

It is important for Sask Sport to be arms-length from being the provider of case manager services to eliminate any notion or perceived notion of bias or conflict of interest involving disputes. Qualified ADR professionals administer cases effectively and efficiently and

ensure that the cases proceed in a timely and cost-efficient manner. Professional ADR management will assist the parties in resolving disputes (without bias nor the perception of bias) and avoiding the high costs of litigation.

ADR Saskatchewan is one of seven affiliates of the ADR Institute of Canada which provides leadership in the development and promotion of dispute resolution services in Canada. Their regulatory framework is designed to ensure organizations and members of the public seeking ADR services receive quality service.

11. What is a Case Manager?

A Case Manager is an individual appointed by ADR Saskatchewan, who need not be a member or affiliated with ADR Saskatchewan, to administer the Discipline and Complaints Policy. The Case Manager, whether or not appointed by the Association at its sole discretion, should be experienced with the management of disputes in an unbiased manner. For more information about the role of a Case Manager, please see Appendix A in the Discipline and Complaints Policy template.

12. What is the cost to access Case Manager services for Sask Sport membership?

Sask Sport covers Case Manager fees as a membership service; therefore there will be no charge to PSOs who make a request for case management through Sask Sport. However, if dispute resolution requires the engagement of an Arbitrator, Mediator or other professional neutral, these fees are the responsibility of the organization.

13. What services does ADR Saskatchewan provide to Sask Sport?

ADR Saskatchewan provides:

- Performing a roster call to qualified ADR members to establish a specific pool of professionals (Case Managers) interested in working with Sask Sport's members, and being trained in our specific DR policies and procedures.
- In-person/meeting training and facilitation services regarding conflict and dispute policy protocols and processes.
- Case Administration – to ensure that cases proceed efficiently and ensure the neutrality of services. Where other professional neutrals (Mediators or Arbitrators) require engagement to resolve the dispute, ADR Sask provides the appellant/complainant with assistance in selecting the neutral and providing all necessary information, forms or other matters related to the administration of the case.
- Roster selection by Neutral Case Administrator – ADR helps the client to have several neutral service providers (neutral professionals) to choose from, including making available their fee schedule and availability.

Note: Neither Sask Sport's nor ADR Saskatchewan services include the fees charged by the Arbitrator, Mediator or other professional neutral.

14. Who can access ADR services?

Any sport in Saskatchewan can access ADR services. All PSOs and Districts who are members of Sask Sport acting at the provincial level (athletes, coaches, officials, provincial multi-sport organizations, PSOs, Districts, administrators, volunteers) can access ADR services because of its membership benefits. Sask Sport covers the ADR Case Manager service. However, organizations and clubs that are not members of Sask Sport can also access ADR services at their own cost.

Outside of the Sask Sport provided ADR Case Management services to its membership, ADR is available to help with a variety of services and resources (including meeting facilitation and guidance, advice, document review, etc.). More information about ADR services are available on the ADR website: www.adrsaskatchewan.ca.

Sask Sport believes that disputes can be detrimental at all levels of sport, therefore clubs, leagues and teams can access the service using the following protocol:

- The PSO must be notified of a dispute at the community level, and engage in whatever due diligence is necessary to clarify the basis of the dispute and resolve internally if the resolution is straight forward, ineligible or without merit.
- If a PSO deems that an ADR Case Manager is required to manage a resolution to a community dispute, the request for the Case Manager should be directed to Sask Sport's Dispute Resolution Officer (Nathan Cole) by the PSO (not the community party [ies] in dispute).

15. How do we contact a Case Manager?

If a provincial organization wants to request a Case Manager, Sask Sport (and ADR Saskatchewan) prefers one point-of-contact. The point-of-contact for Sask Sport will be Nathan Cole, who will continue in the capacity as the Sask Sport Dispute Resolution Officer. Nathan's role will be to ensure that a complaint is ready to be referred to a Case Manager. The request for a Case Manager should only occur after the provincial organization's Board or staff has reviewed the validity (eligibility) of the complaint or dispute, and has exhausted all potential fair and equitable resolution attempts within its organization.

Once it has been determined by Sask Sport to refer the issue for a Case Manager, the Sask Sport Dispute Resolution Officer will provide the Case Manager with a brief overview of the complaint (incident report) and the contact information for the Sask Sport member body. The Case Manager would then contact the sport member to get a case background summary and contact information for the parties in dispute. ADR Saskatchewan will ensure the appointment of a neutral Case Manager to the Sask Sport member organization that has requested a Case Manager.

16. What costs would be the responsibility of an organization?

If a dispute requires the engagement of an Arbitrator, Mediator or other professional neutral, these fees are the responsibility of the parties in dispute, and should be mutually agreed to by the parties.

In the case of an appeal, an individual must submit a \$500 fee payable to the PSO or District involved in the appeal, which will be refunded if the appeal is successful, or forfeited if the appeal is denied.

17. What should I do if our organization receives a complaint?

Only written complaints should be accepted. Upon receiving a complaint, the organization should conduct an internal review to determine validity and next steps. The organization may request the appointment of a Case Manager if there is uncertainty about the validity of the complaint, if handling the complaint internally would cause any real or perceived conflict of interest, or if they deem help is necessary to resolve the issue.

18. What does the policy say about an appeal process?

Individuals who wish to appeal a decision have 14 days (or a different timeframe determined by the organization) from the date they received notice of the decision, to submit an appeal in writing. The policy requires an appeal fee of \$500 be submitted, along with the written appeal to the provincial organization. The appeal fee will be refunded if the appeal is successful, or forfeited if the appeal is denied.

19. Other than the appeal fee, how much can it cost to engage in a mediation or arbitration process?

In order to get a good estimate of the costs that a complainant or respondent may incur, consider whether travel will be required for legal representatives or witnesses to attend a hearing in person. If a dispute requires the engagement of an Arbitrator, Mediator or other professional neutral, these fees are the responsibility of the organization.

Keep in mind that rules allow for parties to request costs, and the arbitrator has the authority to compel a party to reimburse fees and expenses incurred by another party.

20. Where does the resolution facilitation, mediation, mediation/arbitration or arbitration take place?

A mediation session or arbitration hearing can be held in person, by videoconference, by conference call, or any combination of these formats. In certain circumstances, and when the arbitrator deems it appropriate, a hearing can take the form of a documentary review.

21. What happens after an agreement has been signed or an arbitration decision has been rendered?

The parties MUST comply with the agreement or the decision because they undertook to do so by agreeing to resolution facilitation, mediation, mediation/arbitration, or arbitration before the Dispute Resolution service provider.

22. What happens if a party fails to comply with the agreement or decision?

The PSO (and its board of directors) that the disputing parties are members of is responsible to ensure that all parties comply with the decisions rendered by the Case Manager or by their Disciplinary Panel. If one of the parties fails to comply with the agreement/decision, the PSO must take the necessary actions (further sanctioning, removal of membership, etc.) to remedy this. If the PSO and its board are unable to ensure compliance, the injured party can always ask a court to confirm (ratify) the agreement. When the court ratifies the agreement/decision, it becomes enforceable, just as if it had

been handed down by the court itself. In short, the injured party can go through the court system to make the offending party comply with the agreement or decision. It is in organizations' best interests to resolve disputes fully to reach a resolution and avoid being involved in litigation.

23. Are there situations where the National Sport Organization's Dispute Resolution policies are required to be followed instead of the Provincial Sport Organization's? Which policy should be used?

This is a unique situation, but indeed, it may affect a couple of sports. Since some Provincial Sport Organizations (PSO) have existing dispute resolution policies/mechanisms, it is likely that complaints will continue to be made at the provincial level for those respective Provincial Sport Organizations (PSO).

However recently it was announced that all federally funded National Sport Organizations (NSO) are now required to provide free access to the following for their members:

- 1) Access to a qualified, neutral, third party complaint management service.
- 2) Access to either an independent investigation unit or to the Sport Dispute Resolution Centre of Canada (SDRCC) investigation unit.

On March 11, 2019, the SDRCC launched the Canadian Sport Helpline, a national toll-free sport helpline to offer assistance to victims or witnesses of harassment, abuse or discrimination. The anonymous, confidential and independent service will allow them to share and validate their concerns, obtain advice on required next steps, and be referred to other appropriate resources for follow up.

Aside from offering resources and supports for all callers, the Canadian Sport Helpline is a recognized as the national mechanism for reporting a complaint, however it is important to understand that the helpline is intended to offer support for the most egregious infractions in sport—bullying, abuse, harassment or discrimination. Less egregious infractions may also be reported through the helpline but these callers will be referred to the appropriate organizations to have complaints handled using their own policies.

In cases where complaints are made at the provincial level, the PSO policy should be followed. If your organization is required to report complaints to the NSO, please do so. In cases where the complaint is made with the NSO or through the Canadian Sport Helpline, the NSO will determine whether the complaint is put through the NSO policies/mechanisms or sent down to the provincial level, for the PSO to handle with their policies/mechanisms. If there is any uncertainty about how to handle a complaint, please contact Nathan Cole.

24. What are the implications of National Sport Organizations requiring Provincial Sport Organizations to align their policies with Federal Guidelines?

Saskatchewan's amateur sport community has been proactive over the years to establish comprehensive policies and procedures that support safe, welcoming, inclusive and respectful environments for sport. With assistance from the Dispute Resolution Policy suite available on Sask Sport's website (www.sasksport.ca/member-services/policies-procedures/dispute-resolution/) and Sask Sport's mandatory policy requirements, Sask Sport's members are well positioned to comply with federal mandates to support safe sport. If provincial policy changes are required by National Sport Organizations, Sask Sport anticipates that the changes will be minimal.

Sask Sport recognizes the important work of National Sport Organizations and working groups that promote and support safe sport for all, and we support their initiatives to ensure that everyone in Canada is accountable to the same fair and equitable processes for safe sport. We are committed to working with our members to work through those national policy modifications, to ensure that the initial spirit and intent of the provincial policies and procedures are not jeopardized, and are available to help with any questions.

Keep in mind, all policy changes must be documented and provided to Sask Sport in a format that displays the changes clearly. Sask Sport requests that organizations track all policy changes in a Microsoft Word version of the templates (available on the Sask Sport website at www.sasksport.ca/member-services/policies-procedures/dispute-resolution/) by using the “Track Changes” tool.