



Appeal Policy

Preamble

1. Orienteering Canada recognizes the right of Stakeholders to appeal certain decisions of Orienteering Canada and hereby provides for an appropriate process for resolving disputes that could arise from time to time from such decisions of Orienteering Canada.
2. The purpose of this appeal policy is to enable disputes with Stakeholders to be dealt with fairly, expeditiously and affordably within Orienteering Canada, without having to resort to formal legal and court-like procedures.

Definitions

3. The following terms have these meanings in this Policy:
 - a) **Appellant** – The Party appealing a decision
 - b) **Case Manager** - Refers to the person in charge of managing the case. This person can be anybody who has no involvement with the decision being appealed; The Case Manager is appointed by Orienteering Canada within **3 working days** of the receipt of the complete Appeal submission if the Appeal falls within the scope of this policy. The Case Manager will be responsible for, but not limited to:
 - i. The overall responsibility to ensure procedural fairness and that timelines are implemented and respected; and
 - ii. The decision-making authority described in this policy
 - c) **Days** – Days including weekends and holidays
 - d) **Panel** - Refers to the appeal panel established by the Case Manager
 - e) **Parties** – The Appellant, Respondent, and any other Stakeholders or persons affected by the appeal
 - f) **Representative** - Refers to the person appointed by Orienteering Canada in charge of deciding if the appeal falls within the scope of this policy and if an appeal submitted after the deadline will be considered. This person can be anybody who has no involvement with the decision being appealed.
 - g) **Respondent** – The body, person or persons whose decision is being appealed
 - h) **Stakeholders** – Stakeholders include:
 - i. All categories of membership defined in the Orienteering Canada Bylaws
 - ii. All individuals engaged in activities with Orienteering Canada including, but not limited to, athletes, coaches, officials, volunteers, team managers, medical and paramedical personnel, administrators, committee members, and directors and officers of Orienteering Canada.
 - iii. All members of Orienteering Canada Provincial/Territorial Associations, Member Clubs (and those affiliated with an Orienteering Canada Provincial/Territorial Association)
 - i) **Working Days**: Means total days, excluding weekends and holidays

Scope and Application of this Policy

4. This Policy applies to all Stakeholders and any individual who is directly affected by an Orienteering Canada decision shall have the right to appeal that decision, provided there are sufficient grounds for the appeal under the "Grounds for Appeal" section of this Policy.
5. This Policy **does apply** to decisions relating to:
 - a) Eligibility
 - b) Selection
 - c) Conflict of Interest



d) Discipline

6. The Policy **does not apply** to decisions relating to:
- a) Employment
 - b) Decisions regarding doping offenses
 - c) The technical rules of Orienteering Canada
 - d) Selection criteria, quotas, policies and procedures established by entities other than Orienteering Canada
 - e) Substance, content and establishment of Orienteering Canada policies and procedures, including team/program selection criteria
 - f) Volunteer/coach appointments and the withdrawal or termination of those appointments
 - g) Selection of award recipients
 - h) Budgeting and budget implementation
 - i) Orienteering Canada's operational structure and committee appointments
 - j) Decisions made by the International Orienteering Federation, Canadian Interuniversity Sport and other organizations affiliated with Orienteering Canada
 - k) Decisions or discipline arising during events organized by entities other than Orienteering Canada, which are dealt with under the policies of these other entities, provided that they have an appeal policy in place.
 - l) Commercial matters
 - m) Criminal offences for which the Appellant(s) is/are seeking a criminal conviction
 - n) Decisions made under this Policy

Timing and Process to Submit Appeal

7. Stakeholders who wish to appeal a decision will have **7 days** (unless a shorter time frame has been indicated in the specific selection criteria) from the date they received notice of the decision, to submit in writing via email to info@orienteering.ca, the following:
- a) The name(s) of the Appellant(s)
 - b) The contact details (email, phone, current address, and permanent address) of the Appellant(s)
 - c) The name(s) of the Respondent(s) and any other affected parties
 - d) Date the Appellant was advised of the decision being appealed
 - e) The decision being appealed
 - f) The grounds for the appeal and detailed reasons to support the grounds
 - g) A summary of the evidence that supports these grounds
 - h) A list of the witnesses to be called at the hearing with a summary of the evidence to be provided by them
 - i) The remedy sought
 - j) Whether or not representative(s) will be present
 - k) The reasoning to consider an appeal submitted after the deadline, as provided by section 9, when required
8. An administrative fee of two hundred and fifty dollars (\$250) must be submitted via PayPal to finance@orienteering.ca prior to the appeal deadline. The fee will be refunded if the appeal is successful.
9. Appeals submitted after the deadline may be considered only under exceptional circumstances. The decision to allow an appeal that has been submitted after the deadline will be at the discretion of a Representative appointed by Orienteering Canada, or the Case Manager upon receipt of such authority from Orienteering Canada. This decision may not be appealed.

Grounds for Appeal

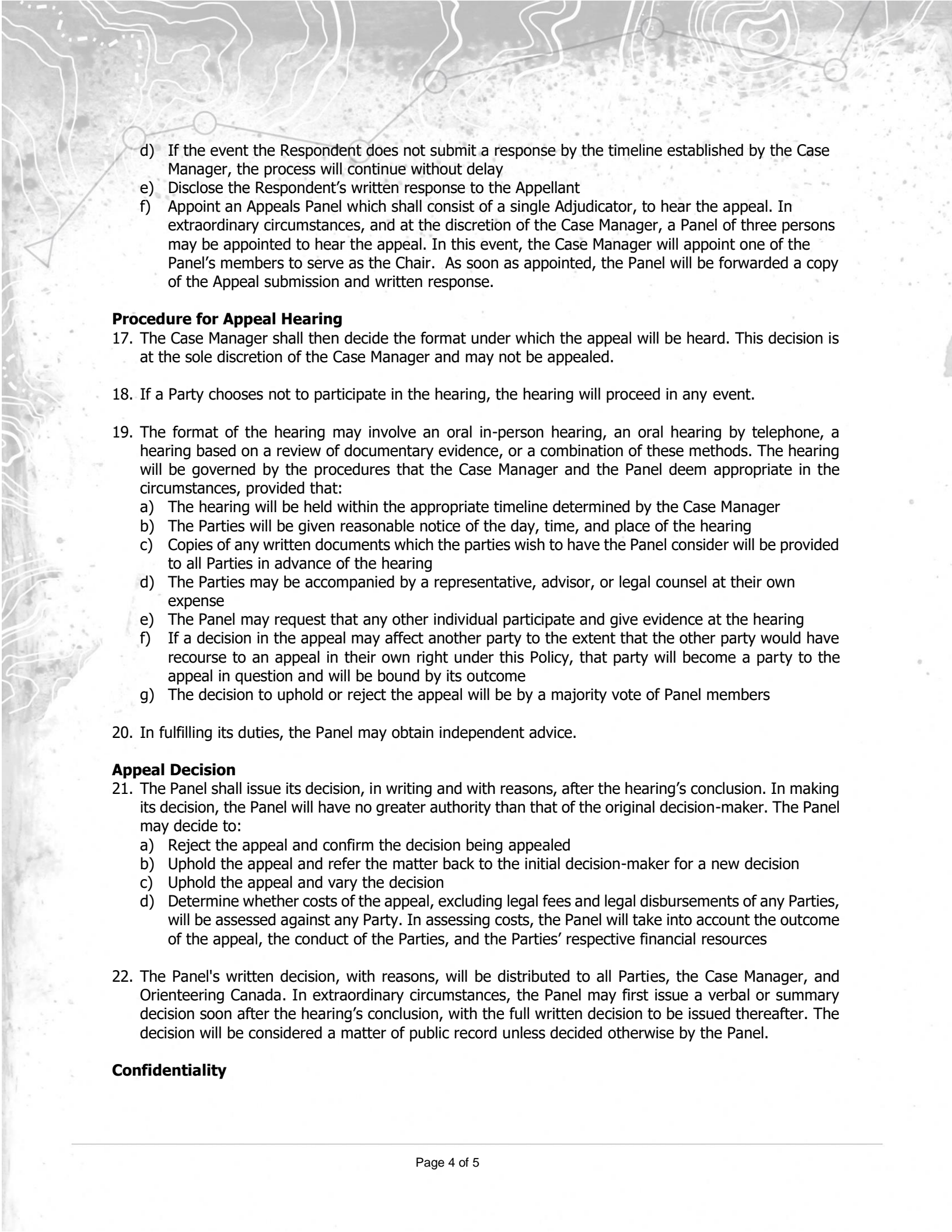
10. A decision cannot be appealed on its merits alone. An appeal may only be heard only if there are sufficient grounds for the appeal. Sufficient grounds include, but are not limited to, the Respondent:
 - a) Making a decision for which it did not have authority or jurisdiction
 - b) Failing to follow procedures as laid out in the bylaws or policies and procedures of Orienteering Canada
 - c) Making a decision which 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 made on the basis of, or significantly influenced by factors unrelated to the merits of the decision
 - d) Exercising its discretion for an improper purpose
 - e) Making a decision that was grossly unreasonable or grossly unfair
11. The Appellant bears the onus of proof and must demonstrate, on a balance of probabilities, that the Respondent has made a procedural error as described in the 'Grounds for Appeal' section of this Policy.

Alternate Dispute Resolution

12. Orienteering Canada supports the options of mediation and facilitation. At any time in the appeals process, the Parties, by mutual agreement, may decide to pursue negotiation or mediation. Failing the resolution of the appeal through negotiation or mediation, or if either Party chooses to forego alternate dispute resolution, the appeal shall continue to be addressed under this Policy.

Screening of Appeal

13. Upon receipt of an appeal, Orienteering Canada will appoint a representative to determine whether an appeal is within the jurisdiction of this Policy and if the appeal meets the requirements of Sections 4, 5, 7 and 8.
14. If the representative determines that the appeal does not fit within the jurisdiction of this policy or meet the requirements of Section 4, 5, 7 and 8, the appeal will be dismissed. This decision may not be appealed. If the representative determines the appeal is within the jurisdiction of this policy and meets the requirements of Section 4, 5, 7 and 8, Orienteering Canada will appoint a Case Manager who will decide if the appeal meets the sufficient grounds for the appeal described in Section 10.
15. If the appeal is denied on the basis of insufficient grounds by the Case Manager, the Appellant will be notified, in writing, of the reasons for this decision. This decision may not be appealed.
16. If the Case Manager is satisfied there are sufficient grounds for an appeal, the Case Manager will:
 - a) Discuss the circumstances with the Appellant(s) and, without any delay, will notify the Respondent(s) in writing and forward a copy of the Appeal submission to the Respondent(s)
 - b) Ensure that the Appellant(s) and the Respondent(s) have attempted to resolve the dispute privately between themselves. If this attempt is not successful, the Case Manager must be informed within **2 working days** of his/her receipt of the Appeal submission. It is expected that most issues will be resolved at this level
 - c) Request a written response from the Respondent outlining the Respondent's position by a determined timeline. The written response will contain:
 - i. The contact details (email, phone, address) of the Respondent
 - ii. A summary of the evidence that supports the Respondent's position
 - iii. A list of witnesses to be called at the hearing and a summary of the evidence to be provided by them
 - iv. Whether or not representative(s) will be present for the hearing

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- d) If the event the Respondent does not submit a response by the timeline established by the Case Manager, the process will continue without delay
 - e) Disclose the Respondent's written response to the Appellant
 - f) Appoint an Appeals Panel which shall consist of a single Adjudicator, to hear the appeal. In extraordinary circumstances, and at the discretion of the Case Manager, a Panel of three persons may be appointed to hear the appeal. In this event, the Case Manager will appoint one of the Panel's members to serve as the Chair. As soon as appointed, the Panel will be forwarded a copy of the Appeal submission and written response.

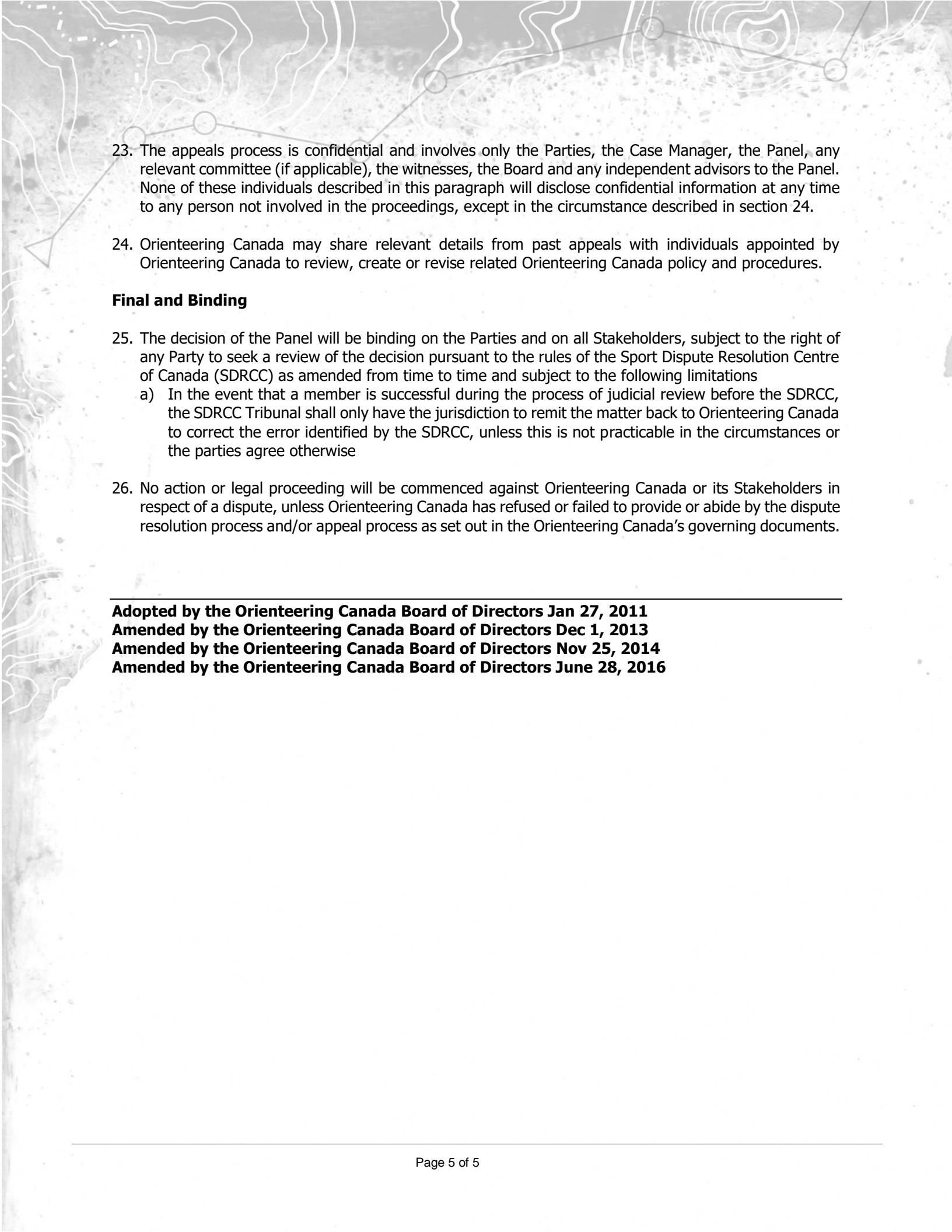
Procedure for Appeal Hearing

17. The Case Manager shall then decide the format under which the appeal will be heard. This decision is at the sole discretion of the Case Manager and may not be appealed.
18. If a Party chooses not to participate in the hearing, the hearing will proceed in any event.
19. The format of the hearing may involve an oral in-person hearing, an oral hearing by telephone, a hearing based on a review of documentary evidence, or a combination of these methods. The hearing will be governed by the procedures that the Case Manager and the Panel deem appropriate in the circumstances, provided that:
 - a) The hearing will be held within the appropriate timeline determined by the Case Manager
 - b) The Parties will be given reasonable notice of the day, time, and place of the hearing
 - c) Copies of any written documents which the parties wish to have the Panel consider will be provided to all Parties in advance of the hearing
 - d) The Parties may be accompanied by a representative, advisor, or legal counsel at their own expense
 - e) The Panel may request that any other individual participate and give evidence at the hearing
 - f) If a decision in the appeal 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
 - g) The decision to uphold or reject the appeal will be by a majority vote of Panel members
20. In fulfilling its duties, the Panel may obtain independent advice.

Appeal Decision

21. The Panel shall issue its decision, in writing and with reasons, after the hearing's conclusion. In making its decision, the Panel will have no greater authority than that of the original decision-maker. The Panel may decide to:
 - a) Reject the appeal and confirm the decision being appealed
 - b) Uphold the appeal and refer the matter back to the initial decision-maker for a new decision
 - c) Uphold the appeal and vary the decision
 - d) Determine whether costs of the appeal, excluding legal fees and legal disbursements of any Parties, will be assessed against any Party. In assessing costs, the Panel will take into account the outcome of the appeal, the conduct of the Parties, and the Parties' respective financial resources
22. The Panel's written decision, with reasons, will be distributed to all Parties, the Case Manager, and Orienteering Canada. In extraordinary circumstances, the Panel may first issue a verbal or summary decision soon after the hearing's conclusion, with the full written decision to be issued thereafter. The decision will be considered a matter of public record unless decided otherwise by the Panel.

Confidentiality

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23. The appeals process is confidential and involves only the Parties, the Case Manager, the Panel, any relevant committee (if applicable), the witnesses, the Board and any independent advisors to the Panel. None of these individuals described in this paragraph will disclose confidential information at any time to any person not involved in the proceedings, except in the circumstance described in section 24.
24. Orienteering Canada may share relevant details from past appeals with individuals appointed by Orienteering Canada to review, create or revise related Orienteering Canada policy and procedures.

Final and Binding

25. The decision of the Panel will be binding on the Parties and on all Stakeholders, subject to the right of any Party to seek a review of the decision pursuant to the rules of the Sport Dispute Resolution Centre of Canada (SDRCC) as amended from time to time and subject to the following limitations
- a) In the event that a member is successful during the process of judicial review before the SDRCC, the SDRCC Tribunal shall only have the jurisdiction to remit the matter back to Orienteering Canada to correct the error identified by the SDRCC, unless this is not practicable in the circumstances or the parties agree otherwise
26. No action or legal proceeding will be commenced against Orienteering Canada or its Stakeholders in respect of a dispute, unless Orienteering Canada has refused or failed to provide or abide by the dispute resolution process and/or appeal process as set out in the Orienteering Canada's governing documents.

Adopted by the Orienteering Canada Board of Directors Jan 27, 2011
Amended by the Orienteering Canada Board of Directors Dec 1, 2013
Amended by the Orienteering Canada Board of Directors Nov 25, 2014
Amended by the Orienteering Canada Board of Directors June 28, 2016