



## SWIM TEAM NEW BRUNSWICK 2021 CANADA GAMES PLAN

### INTRODUCTION

The Canada Summer Games is a quadrennial event that brings together over 3000 of the nation's top young athletes to compete in 21 different sports. All 13 provinces and territories participate in what is the largest regular multi-sport event in Canada. The Swimming event takes place August 6-13, 2021 in Niagara, Ontario.

### Article I Roles and Responsibilities:

#### Section 1.01 Swimming NB

The Canada Games Team is a program of Swimming New Brunswick (SNB). SNB is responsible for program guidance, support and oversight. The Board of Directors of Swimming NB is responsible for naming the members of the CG selection committee as well as the appeal committee.

#### Section 1.02 Coaches and Managers:

Coaches and Team Managers are responsible for:

- Supervising participants' preparation, performance and conduct prior to, during and after the Games;
- Ensuring all team members are fully registered for the Games including submitting the signed waiver forms and participant agreements;
- Coaching/managing in a fair and sportsmanlike manner;
- Familiarizing themselves with and adhering to Team NB's Code of Conduct and rules;
- Ensuring that the athletes have read and understand all Code of Conduct matters;
- Taking care of all administrative requirements and adhere to deadlines for information;
- Residing in the Athletes' Village throughout the Games;
- Attending all Team NB official functions and ceremonies as required and ensuring that information is communicated between athletes and Team NB;
- Supervising athletes at all times and ensuring Team NB Code of Conduct is followed.

#### Section 1.03 Canada Games Selection Committee

The Canada Games Selection Committee is composed of

- 2 members of the Technical Committee, usually the chairs of the Performance and Development sub-committees
- 2 members of the SNB Board

- 1 Head-coach who is not a member of the Technical Committee (selected by the TC Chair and the ED to ensure representativity of clubs around the province)
- Executive Director of SNB (non-voting)

Two swimmers who represented NB at the previous Canada Games will be invited to advise the Selection Committee (one female, one male) selected by the TC Chair and the ED to ensure representativity of clubs around the province.

## **Article 2 Participants**

### **Section 2.01 Athletes**

Female: 16

Male: 16

Two (2) of the female team positions and two (2) of the male team positions are reserved exclusively for Para-swimmers classified under the WPS Swimming

Classification procedure: classes S1 – S10 physical impairment; classes S11 - S13 visual impairment; class S14 intellectual impairment.

Two (2) of the female team positions and two (2) of the male team positions are reserved exclusively for Special Olympics Canada registered swimmers.

### **Section 2.02 Classification**

- Olympic Program:

Male swimmers must be born in 2005 or later

Female swimmers must be born in 2006 or later

- Paralympic:

All para swimmers (classes S1-S14) must be born between 1996-2008

- Special Olympics:

All Special Olympics Canada registered swimmers must be born between 1996-2008

### **Section 2.03 Eligibility**

All athletes must meet the classification age category and the eligibility criteria as stated in the 2021 Canada Summer Games Technical Package. Please refer to the 2021 Canada Games (CG) Technical Package for additional requirements on eligibility, please refer to the online version: <https://drive.google.com/file/d/125S5Q79qRoT0gJK30CgpNTskNomcqSGb/view>

All athletes must be residents of New Brunswick for at least 180 days before the opening of the games (an athlete can have only one domicile).

Athletes must be registered with Swimming/ Natation Canada and with Swimming New Brunswick.

## Section 2.04 Swimmers commitment

All swimmers who intend to participate in the Canada Games trials and to enter the team event must provide:

- A fully filled-out statement from the Canada Games team (Appendix B)
- The signed commitment letter agreeing to participate in the provincial programs (appendix C)
- Proof of age on request

## Article 3 Eligibility and Selection Criteria

### Section 3.01 Able-bodied athletes

#### A. Selection criteria:

The selection of the NB team will be based solely on performances:

- During one or both 2021 Canada Games trial events (First event during the NB Spring championships in March 2021 and the 2nd event during the NB LC Champs\CG 2021 selection event in May, 2021);
- In a maximum of 7 events selected by the swimmer prior to the CG trials;
- In the open category finals, not the age group category (see exemptions in section 2.04.);
- Note that no performance during relay events or time trials will be considered in the selection.

#### B. Selection procedure:

Any swimmer wishing to compete in the Canada Games Trials must meet the eligibility criteria above and must choose, within the authorized time periods, a maximum of 7 events that she/he intends to swim (no changes will be accepted). Results of both Canada Games Trials will be combined to provide a ranking (best performances) using the most recent FINA rating table. Team NB will be selected using the following three step selection process, with progression to the next step only if there are unfilled places on the team.

**Step 1** All first-place finishers in each event must reach the current FINA LC minimum score of 400 points for that event (no FINA points necessary for the 3Km event). If there are more than 12 event winners of either sex, the winner of the 3km event will be selected first and the remaining 11 winners of each event will be selected according to the best current FINA LC scores.

**Step 2** All second-place finishers (excluding the 3km event) will be ranked according to the total FINA LC points for each of the individual events in which they placed second.

All athletes arriving in 1st place without reaching 400 points or arriving in 2nd place (excluding the 3km event) will be ranked according to the total number of FINA LC points for each of the individual events in which they arrived in 1st or 2nd place".

**Step 3** The athletes with the highest score by current FINA LC rating in the individual 100m and 200m freestyle events will be considered for the relay. If the first and second place finishers in each of the 100m and 200m freestyle events have already been selected, then the

swimmer with the next best FINA rating in either of these events will be selected provided that the swimmer has reached the minimum current FINA LC rating of 400 points.

Composition of the Team will be announced at the end of the second Canada Games Trials.

**C. Tie breaker**

**Step 1** In the event of a tie between two or more swimmers ranking is determined firstly by the number of first places and then (if swimmers are still tied) by the total FINA LC points for the events in which they gained first place.

**Step 2** In the event of a tie between two or more swimmers ranking is determined by the highest FINA LC points for the events in which they gained second place.

**Step 3** In the event of a tie between two or more swimmers ranking is determined by the highest FINA LC points in any of the 7 events not already considered in ranking.

**D. Canada Games registration**

Final individual entries and relay team composition will be determined by the Canada Games Swimming New Brunswick coaching staff. Athletes who are selected for the team on the basis of a first or second place in the Canada Games Trials will swim that event at the Canada Games unless the athlete and head coach of the New Brunswick Canada Games swimming team can provide reasonable grounds for not doing so. These grounds must be communicated in writing to the athlete and the coach, with a copy to be sent to the SNB Executive Director. Athletes who did not swim in the final of an event at either of the two Canada Games Trials will not swim that event at the Canada Games unless there are no other qualifying athletes.

**Section 3.02 Para swimmers and Special Olympic Swimmers selection:**

Para swimmers and Special Olympic swimmers must participate in at least two swim meets sanctioned by Swimming New Brunswick between September 1, 2020 and the end of the 2nd Canada Games Trial. The qualifying events for the first round of selection are those of the best performances achieved in the finals of the two Canada Games Trials. The places for Para swimmers will be filled according to the combined FINA Para LC points from three events (no matter what style of swimming).

In the event that the places on the team reserved for para swimmers are not all filled at the two Canada Games Trials, the combined FINA Para LC points from three events, from any sanctioned competition between September 1, 2020 and the second Canada Games Trials will be considered, in descending order of points.

**A. Tie Breaker**

In the event of a tie for the last place on the team, the swimmer with the highest current FINA Para LC points in an event during any sanctioned competition will be selected. If the tie persists, the next highest FINA Para LC points will be used, and so on.

**B. Canada Games registration**

Individual entries will be determined by the Canada Games Swimming New Brunswick coaching staff, with the presumption that any athlete who wins a Canada Games Trials event will swim that event in the Canada Games event unless the athlete or head coach of the New Brunswick Canada Games swimming team provides reasonable grounds for this not to be the case.

### **Section 3.03 Uncontrollable circumstances**

In the event of unforeseeable or unusual circumstances determined by the Swimming New Brunswick Selection Committee, the committee has full discretion to resolve the matter in its sole discretion, considering the factors and circumstances deemed relevant.

#### **A. Swimmers outside the country**

Swimmers who will be out of the country for a post-secondary student exchange and / or study program and who are unable to attend Canada Games trials and who otherwise meet all selection criteria may apply for exemption from the requirement to attend Canada Games Trials. The exemption request must be presented to the Canada Games Selection Committee by January 1, 2021. The technical committee may accept that the swimmers result from a single long-course swim meet to be appointed by the selection committee, instead of Canada Games Trial meet results. The replacement swim meet must be conducted in accordance with FINA rules and regulations and sanctioned by a governing body affiliated with FINA, and the results must be available before the start of the second Canada Games trials. The Canada Games team selection will be performed according to the selection criteria 3.01-3.03 using the results from the replacement swim meet.

### **Section 3.04 Coaching staff selection**

All coaches wishing to be part of the Canada Games Team should submit a written request to the Canada Games Selection Committee explaining why they should be selected. The committee will make its selection and submit this to the SNB Board for approval, accompanied by a list of all coaches who applied and a justification of why each was selected or refused.

In order to avoid a potential or perceived conflict of interest, members of the Canada Games Selection Committee or SNB staff members who wish to be considered in the selection process must exclude themselves from the selection process.

All coaches selected for the Canada Games Team must be registered with Swimming Canada and Swimming New Brunswick and be members of the Canadian Swimming Coaching and Instructors Association (CSCIA) in good standing. The head coach must be a certified head coach (Level 3 certified status). Other coaches (except Special Olympics) must be trained to head coach (Level 3 trained status). Special Olympics coaches (maximum 1 per province) must be a certified fundamental coach (Level 1 certified) who has completed the Introductory Course in Special Olympics Canada competition. Coaches must hold required status no later than 90 days before the opening of the Games.

### **Section 3.05 Review**

These selection criteria will be reviewed by the Canada Games Committee, the SNB Board and other coaches within three months after the Games in preparation for the following Canada Games cycle.

## Article 4 Disciplinary Measures and Appeals

### Section 4.01 Disciplinary measures

#### A. Able-bodied and PARA athletes

The team management will be made up of the team manager and coaches of the New Brunswick Canada Games NB Team. In the event that an athlete does not respect his commitment or violates the rules of the team in terms of training or misconduct, the management of the team, based on all the recorded facts, can impose disciplinary measures, including the dismissal from the team.

#### B. Special Olympics athletes

Athletes must comply with the SONB Code of Conduct, which includes disciplinary procedures. All appeals by Special Olympics athletes must be submitted to the SONB office and an appeal committee appointed by the SONB will make a decision.

In the event that a Special Olympics athlete does not honor their commitment or violates the team's rules for training or misconduct, the coach assigned to the Special Olympics athlete, relying on all recorded facts, will have the power to make recommendations to SONB regarding any decision to any disciplinary action that may be necessary.

### Section 4.02 Appeals

If an athlete believes that selection or disciplinary processes have not been applied fairly, then the athlete, the coach or the parents/legal guardian may appeal the decision in accordance with the SNB Appeal Policy (Appendix D). A "Fast Track" process will apply, requiring the appeal to be submitted within five days of the athlete being advised of the decision and the Appeal Panel will aim to render its decision within 14 days of the appeal being submitted.

## Article 5 Eligibility

In the event of a discrepancy between this document and the 2021 Canada Games swimming technical guide, the information contained in the technical guide will take precedence.

## Appendix A

### Canada Games Selection Flowchart

Swimmers choose a maximum of 7 events for the Canada Games and compete in one or both Trials events  
NB Spring championships (March), NB Long Course championship (May)

Best results from both events are combined to show places and FINA points for each swimmer.

#### Step 1

Winner of the 3km event is selected for the team  
All event winners with at least 400 FINA LC points for that event.

- If **more than 11 winners** of either sex, then top 11 winners are selected according to the best FINA LC points for that event.
- If **two winners are tied**, then ranking is determined by number of first place finishes, followed by top FINA points for each event which the swimmer won.
- If **fewer than 11 winners with 400 points** of either sex, then proceed to Step 2.

#### Step 2

All second-place finishers (excluding 3km) are ranked by accumulated FINA LC points in all the individual events for which they finished second.

- If **two second-place finishers are tied**, then ranking is determined by the highest points of the best second place.
- If **fewer than 12 swimmers** of either sex have been selected, then proceed to Step 3.

#### Step 3

Swimmers with the highest score by current FINA LC rating in the individual 100m and 200m freestyle events will be considered for the relay.

- If the first and second place finishers in each of the 100m and 200m freestyle events have already been selected, then the swimmer with the next best FINA rating in either of these events will be selected, provided that the swimmer has reached the minimum current FINA LC rating of 400 points.
- If **two swimmers are tied**, then ranking is determined by the highest FINA LC points in any of the 7 events not already considered in ranking

**Team is announced at the closing of the Second Canada Games Trial**

## Appendix B

### 2021 CANADA GAMES TEAM CONTENDER'S DECLARATION

This form is to be filled out by those swimmers who:

1. Meet the 2021 Canada Games eligibility criteria and those set by SNB.
2. Intend to compete in "OPEN" category at the SNB 2021 Canada Games Trials
3. Would like to be considered for the Team Selection.

Swimmer's name : \_\_\_\_\_

Date of Birth : \_\_\_\_\_

Club : \_\_\_\_\_ Gender : \_\_\_\_\_

Head Coach name : \_\_\_\_\_

Swimmer's Signature : \_\_\_\_\_

Parent's or Guardian's Signature : \_\_\_\_\_  
(if swimmer is under 18 years old)

Head Coach Signature : \_\_\_\_\_

Photo Release:

I hereby grant to Swimming New Brunswick the right to photograph my dependent while participating at the Canada Games and use the photo and or other digital reproduction of him/her or other reproduction of his/her physical likeness for publication purposes in newspapers, website or newsletter. I recognize, nevertheless, that I can, at any time, ask Swimming New Brunswick to withdraw these consents.

YES

NO

Parent/Guardian Signature : \_\_\_\_\_ Date : \_\_\_\_\_

**All forms must be turned IN to SNB the first day of the SNB Canada Games 2021 trials.**



## APPENDIX C

### 2021 CANADA GAMES TEAM LETTER OF COMMITMENT

As a member of the 2021 Canada Games contenders for Swimming New Brunswick, I agree to the following conditions should I be selected on the 2021 Canada Games Team after the Trials in May:

1. Work in collaboration with the management team and other team members
2. To follow the directives set by the management team.
3. To be available for all training sessions.
4. To set an example of acceptable behavior.
5. To comply with all required screening and doping controls

Signed \_\_\_\_\_  
(Swimmer)

Signed : \_\_\_\_\_  
(Parent / Guardian)

Date : \_\_\_\_\_

**Club and coach commitment:** Recognizing that athletes selected to the Canada Games team must maintain full time training from time of their selection until the Canada Games competition, the selected swimmer's club and coach recognize their responsibility to the selected swimmer to help the selected swimmer maintain their training schedule. If the club is not able to offer full time training within their club, the club and club coach must help the selected swimmer make alternate arrangements to ensure that full training is maintained. The Club coach must maintain communication with the Canada Games Head coach for the swimmers training schedule.

Club President Name: \_\_\_\_\_ Signature \_\_\_\_\_

Club Head Coach Name: \_\_\_\_\_ Signature \_\_\_\_\_

All forms must be returned to SNB on the first day of the First SNB 2021 Canada games trial or before.

## APPENDIX D

### NEW BRUNSWICK CODE OF CONDUCT

NOTE: *In this policy "member" refers to all categories of members in Swimming New-Brunswick (SNB), as well as to all individuals engaged in activities with or employed by SNB, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel).*

SNB is committed to providing an environment in which all individuals are treated with respect. Further, SNB supports equal opportunity and prohibits discriminatory practices. Members are expected to conduct themselves at all times in a manner consistent with the values of SNB which include: fairness, integrity, open communication and mutual respect. Irresponsible behaviour by members can do severe damage to the sport of swimming and to the support which all levels of swimmers have worked so hard to achieve. Conduct which violates these values may be subject to sanctions pursuant to SNB's Discipline Policy.

In addition to the above, the following specific behaviours will be subject to sanction pursuant to SNB's Discipline Policy:

1. not complying with the by-laws, rules, regulations or policies of SNB, as adopted and amended from time to time;
2. verbally or physically abusing opponents, coaches, officials, spectators or sponsors;
3. showing disrespect to officials, including the use of foul language and obscene or offensive gestures;
4. abusing swim facilities or equipment;
5. failing to comply with the conditions of entry of a swim meet including any rules with regard to clothing or advertising;
6. failing to be available to meet reasonable requests for interviews by the media;
7. any other unreasonable conduct which brings the sport of swimming into disrepute, including but not limited to, abusive use of alcohol, non-medical use of drugs, use of alcohol by minors.

#### **Examples of minor infractions:**

- a. a single incident of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsors;
- b. unsportsmanlike conduct such as angry outbursts or arguing;
- c. a single incident of being late for or absent from SNB events and activities at which attendance is expected or required;
- d. non-compliance with the rules and regulations under which SNB events are conducted, whether at the local, provincial, national or international level.

### Examples of major infractions:

- a. repeated incidents of disrespectful, offensive, abusive, racist or sexist comments or behaviour directed towards others, including but not limited to peers, opponents, athletes, coaches, officials, administrators, spectators and sponsor;
- b. repeated unsportsmanlike conduct such as angry outbursts or arguing;
- c. repeated incidents of being late for or absent from SNB events and activities at which attendance is expected or required;
- d. Activities or behaviors that interfere with competition or with the preparation of another athlete for competition;
- e. Tricks, jokes or other behavior endangering the safety of others;
- f. Deliberate indifference to the rules governing SNB competitions and activities, whether on the local, provincial, national or international scene;
- g. Heavy drinking, where the qualifier "heavy" means drinking such that speaking, walking or driving is impaired, behavior is disturbed or the ability to function effectively and safely is compromised;
- h. Any consumption of alcohol by a minor;
- i. Use of illegal drugs or narcotics;
- j. The use of prohibited techniques or drugs to increase performance.

20 July 2020

## SWIMMING NEW BRUNSWICK PROVINCIAL TEAM CODE OF CONDUCT

Athletes, coaches and team managers who travel with the Provincial Swimming New Brunswick team represent the province, the sport of swimming and their community. Swimming New Brunswick would like to be proud of our sport and our swimmers. Thus, all members of the provincial team must abide by the following code of conduct, from departure to return home. If an athlete does not comply with the Provincial Team Code of Conduct, they may be sent home, at their expense.

By signing this form, you agree to abide by the code of conduct when you represent Swimming New Brunswick.

1. During a team trip, swimmers should behave appropriately. If a member of the training staff determines that an athlete's behavior is unacceptable, the athlete's participation in the competition may be jeopardized and the athlete may be required to return home at his own expense. Refusal to comply with curfew rules established by team staff, for example, is deemed unacceptable
2. Athletes must behave in a calm and disciplined manner when they are in public, especially on public transport, around the swimming pool before the start of their event and at the restaurant.
3. Accommodation establishments or any place acting as such (hotels, residences, dormitories, sports complexes and school gymnasiums) are places devoted to rest. Unacceptable behaviors in such places include running, being on the phone constantly, listening to music or TV at high volume, fighting, making jokes that could cause injury or property damage, or using food, of shaving cream, baby oil or any other material inappropriately.
4. Athletes must not be in possession of stolen equipment, nor willfully cause damage to the property of others.
5. Athletes must respect others individual needs regarding such as study periods, rest period and any other needs.
6. Curfews are determined by members of the team staff and must be respected at all-times.
7. Room doors should be left ajar whenever a member of the opposite gender is in the room. Persons who are not immediate members of the team are not allowed to be in the rooms unless they have obtained permission from the head coach or team manager.
8. Athletes must treat team members, teammates, officials and swimmers of other teams with respect at all-times. Immoral behavior is not acceptable. Abusive or foul language is not acceptable.
9. Athletes are not allowed to drink or carry alcoholic beverages, to use drugs or medication, except medication prescribed by a medical doctor, which must be communicated to team staff, although the proper use of prescription medication remains the responsibility of each athlete.
10. Athletes are not allowed to smoke or chew tobacco
11. When hosted by families, athletes must behave responsibly at all-times. Conditions may not always be ideal, but unacceptable behavior will not be tolerated in any way.
12. Athletes should consider it their responsibility to report to the head coach or team manager anything that goes against the code of conduct. Any athlete present during a breach of the code of conduct of a swimmer from another team must leave the scene immediately and return to his team.
13. Athletes should attend competitions of other team members as much as possible.
14. Athletes are not allowed to leave the team unless they have received permission from the head coach or team manager
15. During the last night of the trip, athletes must behave in accordance with the code of conduct.

Swimming New Brunswick is fully aware that the above conditions may affect certain legal freedoms of athletes. However, for the sake of unity within the team, the cooperation of athletes is necessary and expected.

Any swimmer who disagrees with any aspect of this code of conduct may choose not to be part of the trip. His refusal to sign this agreement within the allocated time will be sufficient to justify his exclusion.

20 July 2020

SWIMMING NEW BRUNSWICK INCIDENT REPORT

Date & Time of incident: \_\_\_\_\_

Name of person writing the report: \_\_\_\_\_ Role: \_\_\_\_\_

Incident location: \_\_\_\_\_

Is this a minor infraction? \_\_\_\_\_ / or major infraction? \_\_\_\_\_

Name of individuals involved in the infraction: \_\_\_\_\_

Objective description of the incident (be concise, accurate and without judgment) :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of people who witnessed the incident: \_\_\_\_\_

\_\_\_\_\_

Disciplinary measures imposed (if applicable): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Writer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## APPENDIX E

### SWIMMING NEW BRUNSWICK APPEAL POLICY

NOTE: In this policy "member" refers to all categories of members in Swimming New-Brunswick (SNB), as well as to all individuals engaged in activities with or employed by SNB, including, but not limited to, athletes, coaches, officials, volunteers, directors, officers, team managers, team captains, medical and paramedical personnel, administrators and employees (including contract personnel); "Appellant" refers to the member appealing a decision; and "Respondent" refers to the body whose decision is being appealed.

#### SCOPE OF APPEAL

1. Any member of SNB who is affected by a decision of the Board of Directors, of any Committee of the Board of Directors, or of any body or individual who has been delegated authority to make decisions on behalf of the Board of Directors, shall have the right to appeal that decision, provided there are sufficient grounds for the appeal as set out in Section 5 of this policy. Such decisions may include, but are not limited to, carding, employment, contract matters, harassment, selection and discipline.
2. This policy shall not apply to matters relating to the rules of the swimming, which may not be appealed.

#### TIMING OF APPEAL

3. Members who wish to appeal a decision shall have 21 days from the date on which they received notice of the decision, to submit written notice of their intention to appeal, along with detailed reasons for the appeal, to the President of SNB. Shorter periods may apply in specific circumstances, such as selection and discipline on the provincial team, provided that this is clearly stated in appropriate documents.

#### GROUNDINGS FOR APPEAL

4. A decision cannot be appealed on its merits alone. An appeal may be heard only if there are sufficient grounds for the appeal. Sufficient grounds include the respondent:
  - a) making a decision for which it did not have authority or jurisdiction as set out in governing documents;
  - b) failing to follow procedures as laid out in the bylaws or approved policies of SNB;
  - 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;
  - d) exercising its discretion for an improper purpose;
  - e) making a decision which was grossly unreasonable.

#### SCREENING OF APPEAL

5. Within 3 days of receiving the notice of appeal, the President shall decide whether or not the appeal is based on one or more of the categories of possible errors by the respondent as set out in Section 5. The president shall not determine if the error has been made, only if the appeal is based on such an allegation of error by the respondent. In the absence of the President, a member of the Executive shall perform this function.
6. If the appeal is denied on the basis of insufficient grounds, the Appellant shall be notified of this decision in writing, giving reasons. This decision is at the sole discretion of the President, or designate, and may not be appealed.

#### APPEALS PANEL

7. If the President is satisfied that there are sufficient grounds for an appeal, within 10 days of having received the original notice of appeal he or she shall establish an Appeals Panel (the "Panel") as follows:

- a) The Panel shall be comprised of three individuals who shall have no significant relationship with the affected parties, shall have had no involvement with the decision being appealed, and shall be free from any other actual or perceived bias or conflict.
- b) At least one the Panel's members shall be from among the Appellant's peers.
- c) The Appellant shall be given the opportunity to recommend the peer member on the Panel, provided that member satisfies criteria a) above.
- d) Should the Appellant not recommend the Panel member as set out in c) above within 5 days, the President shall appoint the peer member of the Panel.

#### **PRELIMINARY CONFERENCE**

8. The Panel may determine that the circumstances of the dispute warrant a preliminary conference:
- a) The matters which may be considered at a preliminary conference include date and location of hearing, time-lines for exchange of documents, format for the appeal, clarification of issues in dispute, any procedural matter, order and procedure of hearing, remedies being sought, identification of witnesses, and any other matter which may assist in expediting the appeal proceedings.
  - b) The Panel may delegate to its Chairperson the authority to deal with these preliminary matters.

#### **PROCEDURE FOR THE APPEAL**

9. The Panel shall govern the appeal by such procedures as it deems appropriate, provided that:
- a) The appeal hearing shall be held within 21 days of the Panel's appointment.
  - b) The Appellant, respondent and affected parties shall be given 14 days written notice of the date, time and place of the appeal hearing.
  - c) The Panel's members shall select from themselves a Chairperson.
  - d) A quorum shall be all three Panel's members.
  - e) Decisions shall be by majority vote, where the Chairperson carries a vote.
  - f) Copies of any written documents which any of the parties would like the Panel to consider shall be provided to the Panel, and to all other parties, at least 5 days in advance of the hearing.
  - g) Any of the parties may be accompanied by a representative or advisor.
  - h) If the matter under appeal relates to team selection, any person potentially affected by the decision of the Panel shall become a party to the appeal.
  - i) The Panel may direct that any other individual participate in the appeal.
  - j) In the event that one of the Panel's members is unable or unwilling to continue with the appeal, the matter will be concluded by the remaining two Panel members.
  - k) Unless otherwise agreed by the parties, there shall be no communication between Panel members and the parties except in the presence of, or by copy to, the other parties.
10. In order to keep costs to a reasonable level the Panel may conduct the appeal by means of a conference call or video conference.

#### **APPEAL DECISION**

11. Within 7 days of concluding the appeal, the Panel shall issue its written decision, with reasons. In making its decision, the Panel shall have no greater authority than that of the original decision-maker. The Panel may decide:
- a) To void or confirm the decision being appealed;
  - b) To vary the decision where it is found that an error occurred and such an error cannot be corrected by the original decision-maker for reasons which include, but are not limited to, lack of clear procedure, lack of time, or lack of neutrality;



- c) To refer the matter back to the initial decision-maker for a new decision; and
- d) To determine how costs of the appeal shall be allocated, if at all.

12. A copy of this decision shall be provided to each of the parties and to the President.

### **TIMELINES**

13. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Panel may direct that these timelines be abridged. 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 extended.

### **DOCUMENTARY APPEAL**

14. Any party to the appeal may request that the Panel conduct the appeal by way of documentary evidence. The Panel may seek agreement from the other parties to proceed in this fashion. If agreement is not forthcoming, the Panel shall decide whether the appeal shall proceed by way of documentary evidence or in-person hearing.

### **ARBITRATION**

15. All differences or disputes shall first be submitted to appeal pursuant to the appeal process set out in this policy. If any party believes the Appeal Panel has made an error such as those described in Section 5 of this Policy, the matter shall be referred to arbitration, such arbitration to be administered under the Sport New Brunswick Provincial Sport Arbitration System for Amateur Sport and its Rules of Arbitration, as amended from time to time.

16. Should a matter be referred to arbitration, all parties to the original appeal shall be parties to the arbitration.

17. The parties to an arbitration shall enter into a formal Arbitration Agreement and the decision of any arbitration shall be final and binding and not subject to any further review by any court of competent jurisdiction or any other body.

### **LOCATION AND JURISDICTION**

18. Any appeal shall take place in Fredericton, unless held by way of telephone conference call or held elsewhere as may be decided by the Panel as a preliminary matter.

19. This policy shall be governed and construed in accordance with the laws of the Province of New Brunswick.

No action or legal proceeding shall be commenced against SNB in respect of a dispute, unless SNB has refused or failed to abide by the provisions for appeal and/or arbitration of the dispute, as set out in this policy