

Main Causes of Disputes and Prevention Strategies

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Canada 


CRDSC  SDRCC

PRESENTATION PLAN

1. SDRCC
2. Scenarios
3. Causes of Disputes and Preventive Strategies
4. Questions

Sport Dispute Resolution Centre of Canada (SDRCC)

.....
An overview



Problem Statement

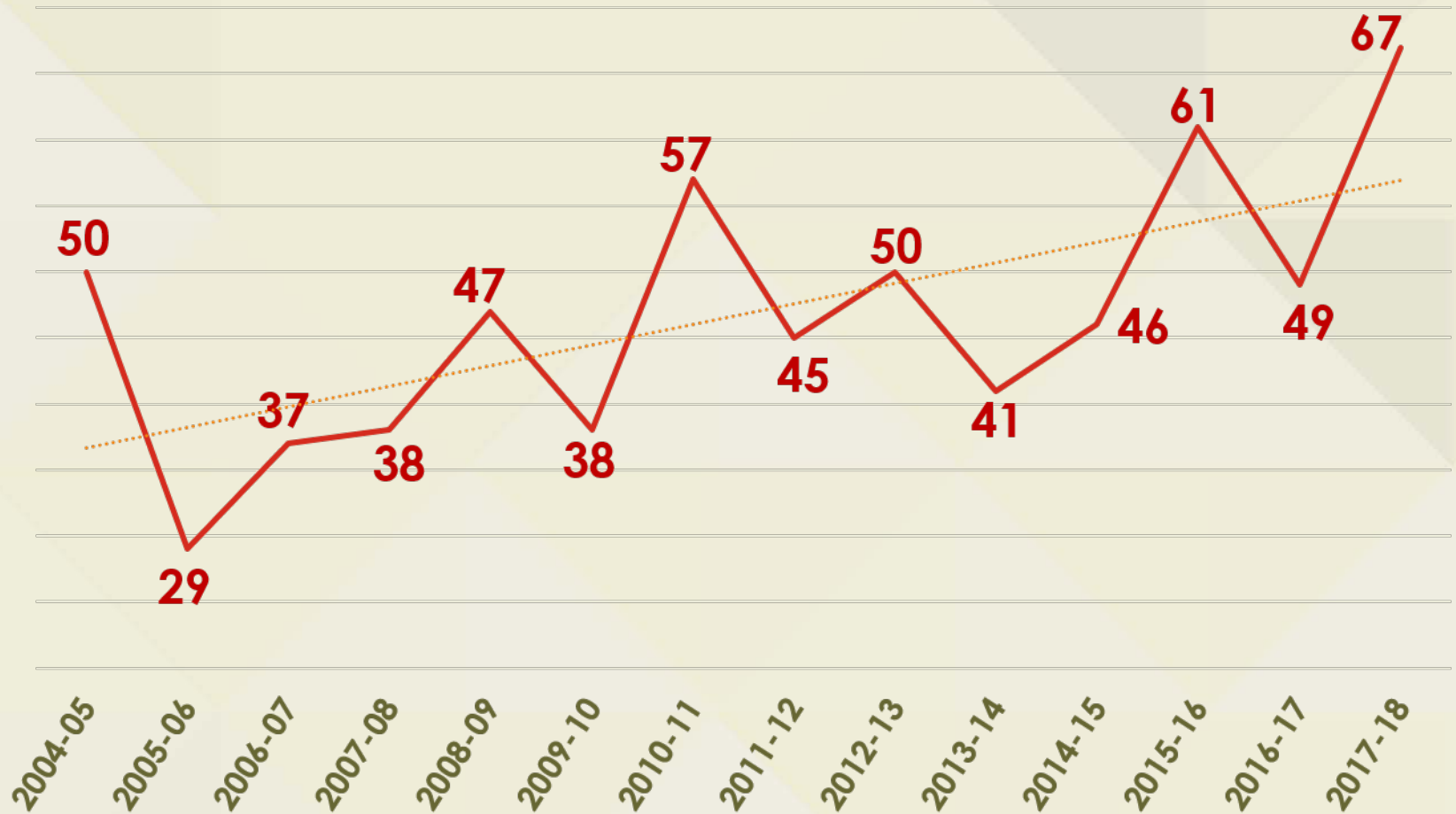
“ Due to a lack of fair and consistent policies, or to the improper administration of those policies, athletes and other participants in sport are being disciplined, harassed and denied opportunities without proper recourse to a hearing or appeal.”

Report of the Work Group
to the Secretary of State (Amateur Sport)
May 2000

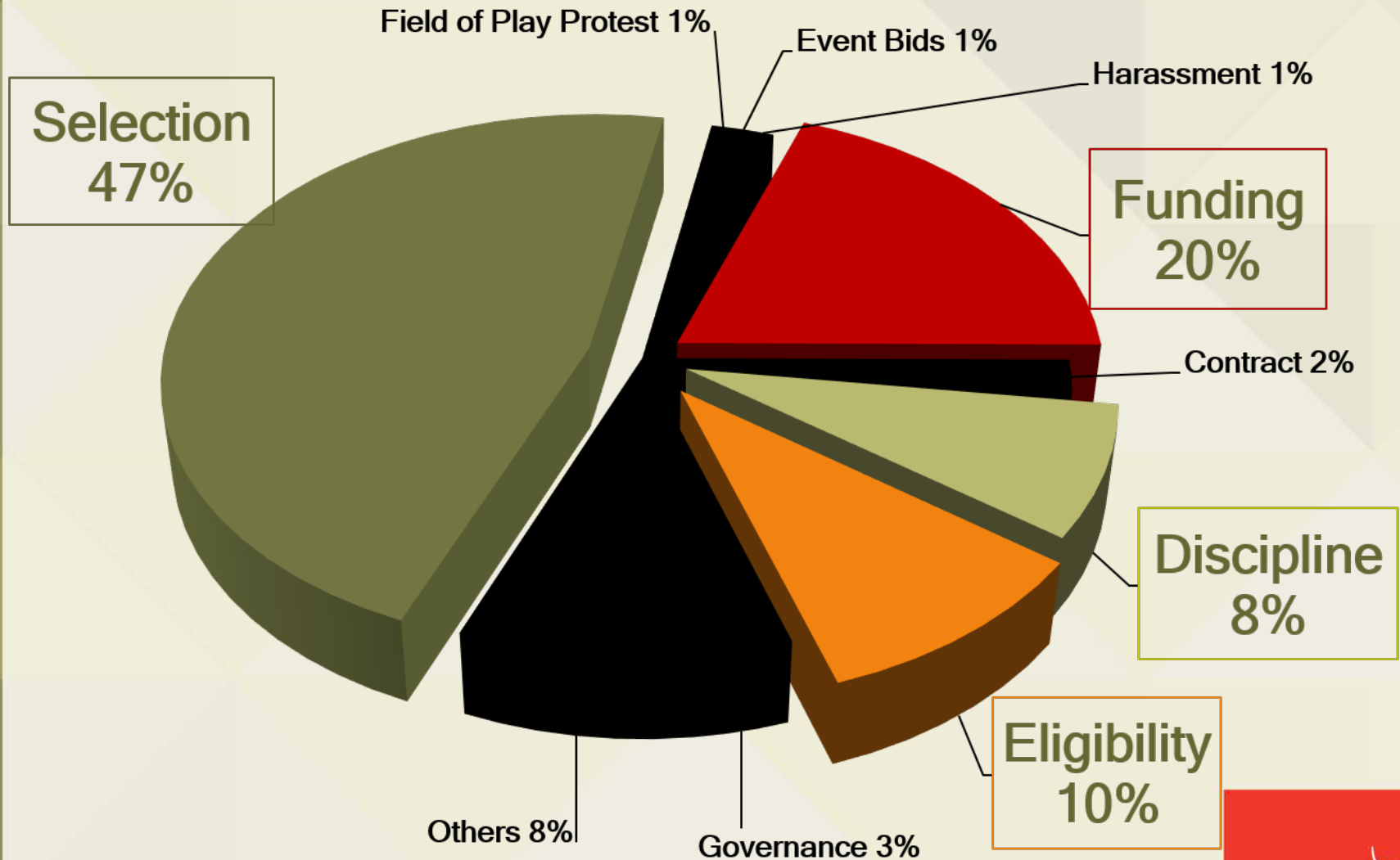
What is the SDRCC

1. Not-for-Profit / 100% Funded by Sport Canada
2. Established in 2004 by Federal Act
3. Prevention and Resolution of Sport Disputes
4. 50 Professional Arbitrators and Mediators
5. Pan Canadian Services in both Official Languages
6. Designated Doping Tribunal in Canada

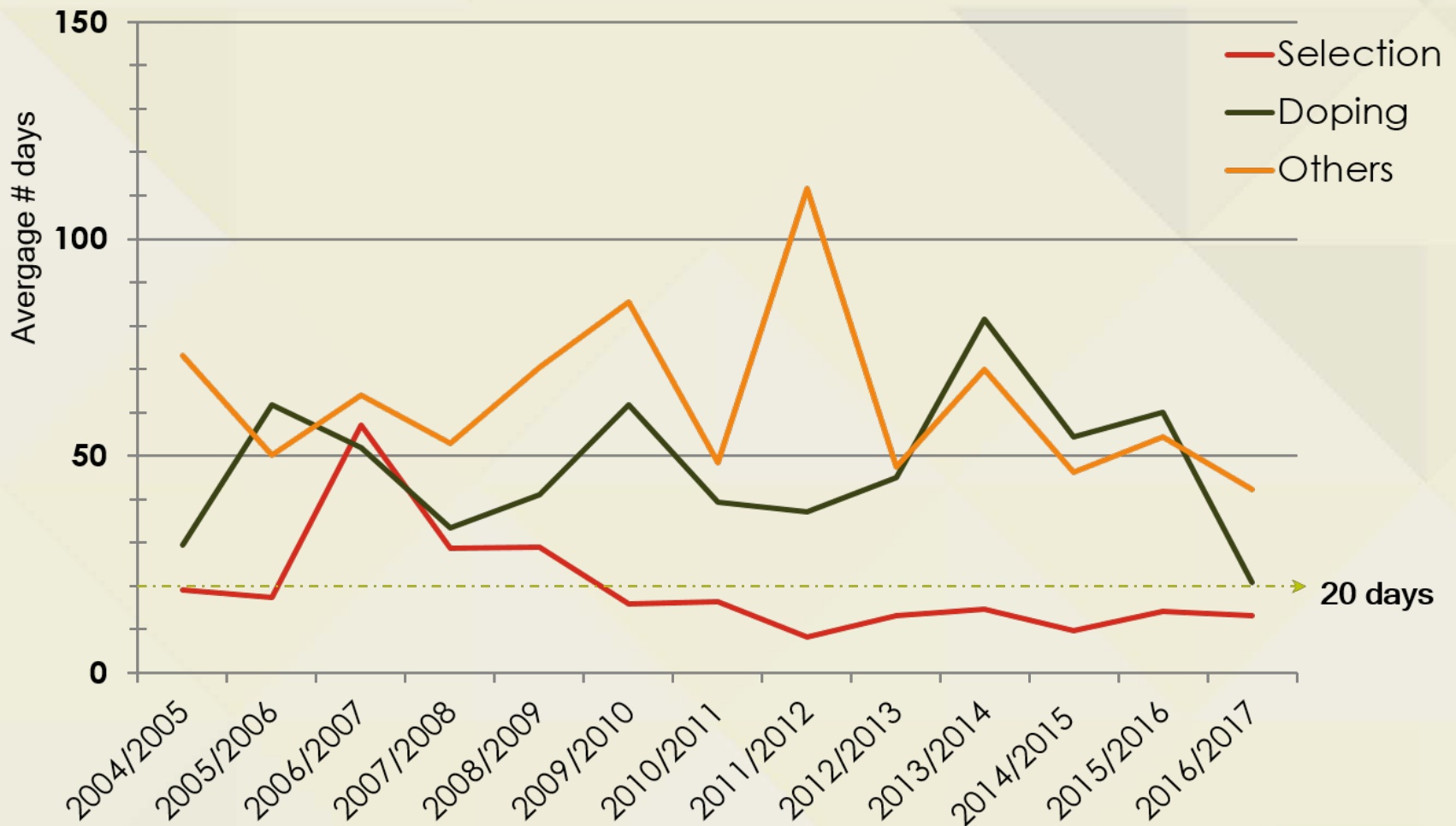
Number of Cases per Fiscal Year



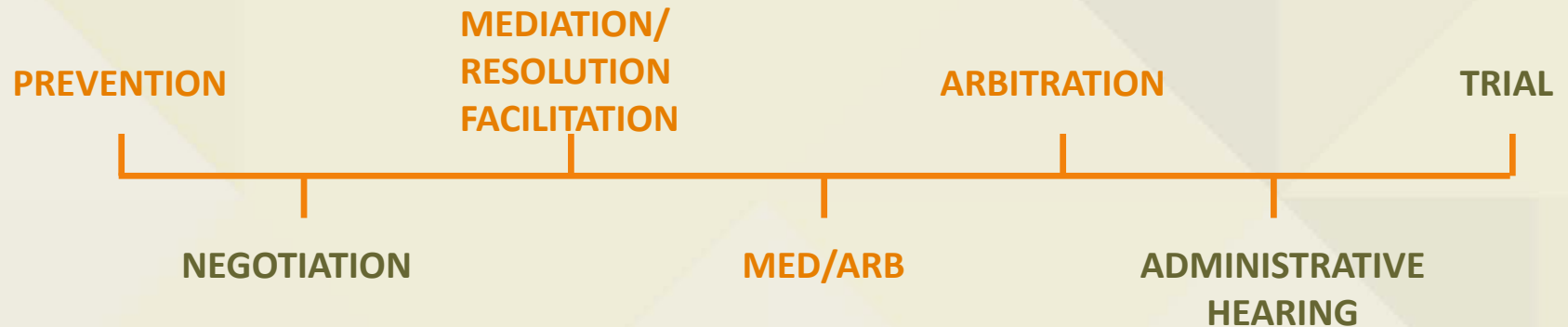
Types of Ordinary Disputes



Average Duration of Cases



THE DISPUTE RESOLUTION SPECTRUM



As you move from left to right:

- Costs escalate
- Takes longer to resolve
- More formality
- More complexity
- Greater involvement of third parties
- Greater potential for damaging relationships
- Greater focus on who is right and wrong (as opposed to practical solutions)

EDUCATION OBJECTIVE

Developing new content and tools to further inform and educate members of the Canadian sport community about dispute resolution and effective risk-reduction strategies

EDUCATION AND OUTREACH

- ❑ Kiosk at conferences and events
- ❑ Presentations and workshops by invitation
- ❑ Consultation on policy drafting

Sample of Topics Covered:

- ❑ *Rights and responsibilities*
- ❑ *Causes of disputes and risk-reduction strategies*
- ❑ *Team selection policies*
- ❑ *Disciplinary processes*
- ❑ *Conflicts of interest*
- ❑ *Internal appeals*



Publications



Jan
in a
dis

Do you feel

- ☒ erroneously sanctioned for an ineligible athlete?
- ☒ wrongfully sanctioned for a disciplinary matter?
- ☒ unfairly sanctioned for a disciplinary matter?



Developed in collaboration with **AthletesCAN**

and Garcia v. CAWA

Mr. Cleopas Ncube and
While leading the final,
which is against the rules.
Declared the winner.

Committee of the Canadian
tie-off between the two



Sport Dispute Resolution Centre of Canada

Precautions to Take During the DECISION MAKING PROCESS

conflict of interest has been identified, it is
impacts. The diagram below suggests some

any moment during the decision-

MAIN CAUSES OF DISPUTES AND PREVENTION STRATEGIES

A MUST FOR SPORT ADMINISTRATORS

UNIT 1

FAIRNESS IN DECISION MAKING

- Introduction
- Fairness in Decision Making
- Case Management
- The Hearing
- The Decision
- The Human Factor



LAUNCH



TOOLS



CRDSC+SDRCC

CRDSC+SDRCC

CRDSC+SDRCC

Newer Resources

WHAT ARE SUBMISSIONS AND WHAT DO I NEED TO FILE?

Suggestions for self-represented parties



THE "BRIEF"

A submission brief typically contains various sections, including:

1

A COVER
PAGE

+

2

A TABLE
OF CONTENTS

+

3

WRITTEN
SUBMISSIONS

+

4

SUPPORTING
EVIDENCE
(SOMETIMES CALLED
"EXHIBITS")

&

5

AUTHORITIES

ment of an

Possible solutions:
would satisfy my me

☐

My chances of succe
Do I have all the evi
favor?

☐

Is it wise for me to accept a settlement that addresses only
some of my expectations, rather than risk losing everything in
arbitration?

☐

Others: Use the space below to record any other thoughts that did not fit in the grid, such as questions you want to remember to ask
of the other party or the RF.

☐

CRDSC SDRCC
Centre de Règlement des Différents Sportifs du Canada
Sport Dispute Resolution Centre of Canada

CRDSC SDRCC

MAIN CAUSES OF DISPUTES AND PREVENTION STRATEGIES



MAIN CAUSES OF DISPUTES AND PREVENTION STRATEGIES

A MUST FOR SPORT ADMINISTRATORS

Prevention Strategies

Main Causes



SCENARIO 1

A stylized sun with a yellow face and grey rays is positioned behind a large, dark brown semi-circle. The sun's face is at the top, and its rays extend outwards. The semi-circle is centered on the page.

DECISION MAKER IN CONFLICT OF INTEREST

What is a Conflict of Interest?



Clear policy
on conflicts
of interest

“A situation whereby an individual has a private or personal interest sufficient enough to appear to influence the objectivity of his or her function as decision maker.”

Types of Conflicts of Interest

Real



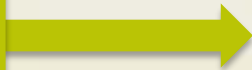
The decision-maker **has** a significant interest in the outcome of the decision.

Potential



The decision-maker could have a personal interest in the outcome of the decision **if...**

Perceived

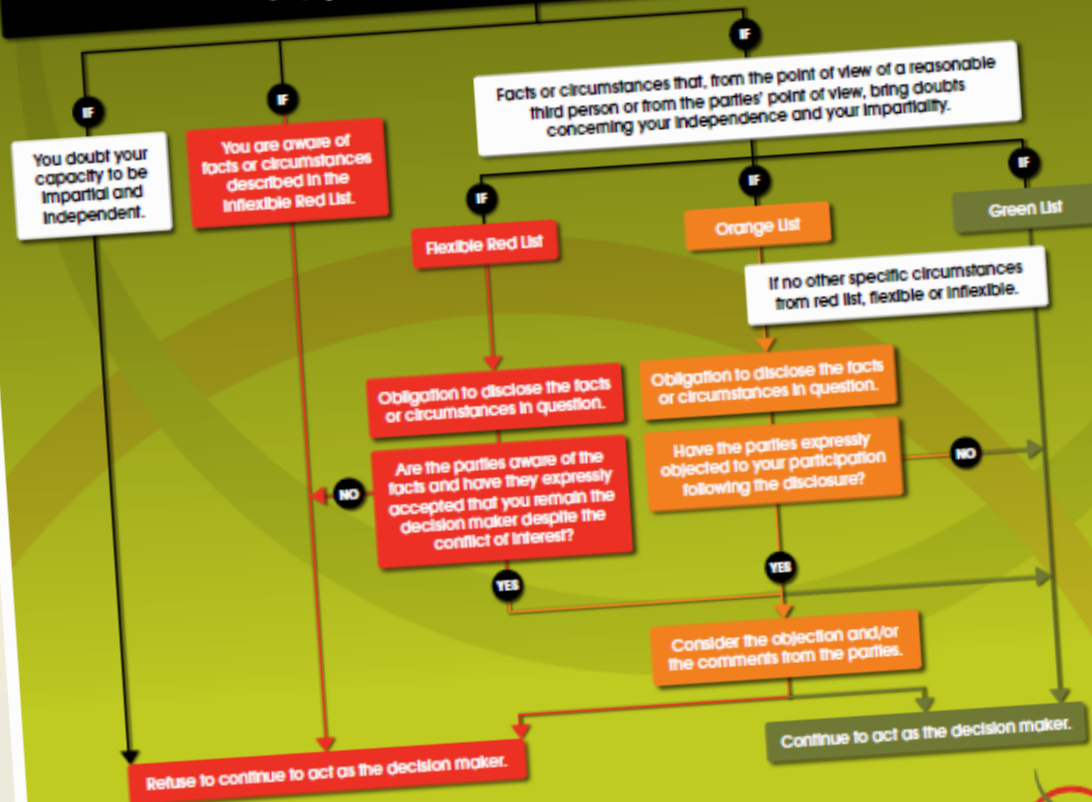


The decision-maker **seems** to have an interest in the outcome of the decision.

Precautions to Take During the DECISION MAKING PROCESS

If a potential for a real or perceived conflict of interest has been identified, it is important to take action to appropriately deal with the situation to avoid potential negative impacts. The diagram below suggests some precautions to take in each type of situation.

At any moment during the decision-making process



GREEN LIST

“Facts that are not considered, objectively, as a conflict of interest, but warrant caution”



Not necessary but disclosure (if any) is preferable

ORANGE LIST

“Situations that could create a perception of conflict of interest among the persons affected by the decision”



Disclose and if no one objects continue to act as decision-maker

Flexible **RED LIST**

“Serious conflict situations, but less serious than the Inflexible Red List”



Disclose and require that all potentially affected individuals expressly agree to you continuing to act as a decision-maker

Inflexible **RED LIST**

“These situations raise the most serious concerns about impartiality”



Refuse to act as decision-maker

Be Careful When:

- ▶ Coaching or have coached athlete in question
- ▶ Having voiced opinion on a similar question
- ▶ Having a family member involved in the decision
- ▶ Having given advice on the issue



**Conflicts of
Interest in
SPORTS-
RELATED
DECISION-
MAKING**

An Ounce of Prevention...

1. Ensure process is clear to members:

- ▶ Training new members and volunteers

2. Create an atmosphere where members feel comfortable declaring the situation:

- ▶ Providing a simple form
- ▶ Adding it to the meeting agenda



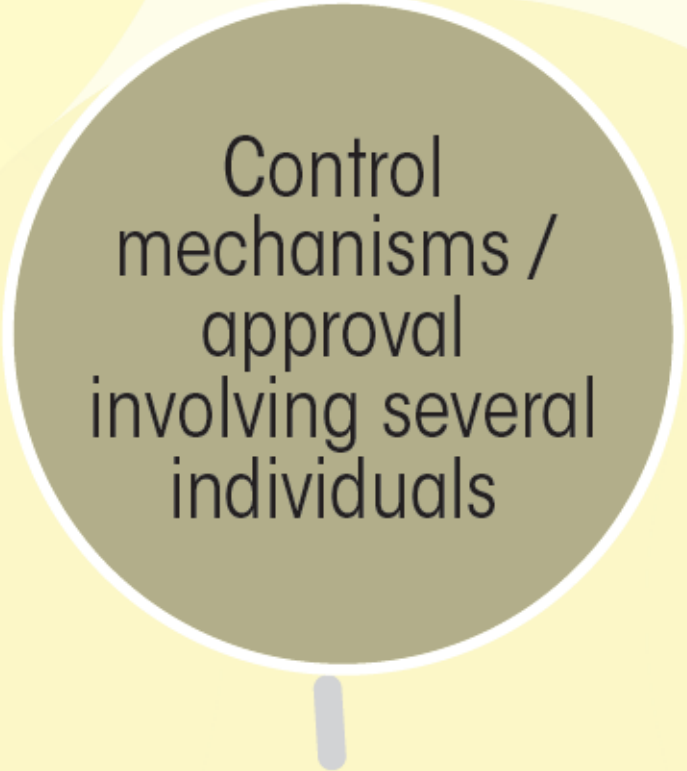
Clear policy
on conflicts
of interest

Reduce the Perception...

1. Major decisions need approval of higher authority

- ▶ High performance committee
- ▶ Board of directors

2. Decisions can be made by a group of people rather than just an individual



Control mechanisms / approval involving several individuals

Play it “by the Book...”

Decisions made according to policies:

- ▶ When decisions are the same no matter who decided
- ▶ Decisions can be justified by facts



Decisions
compliant
with policies
and rules

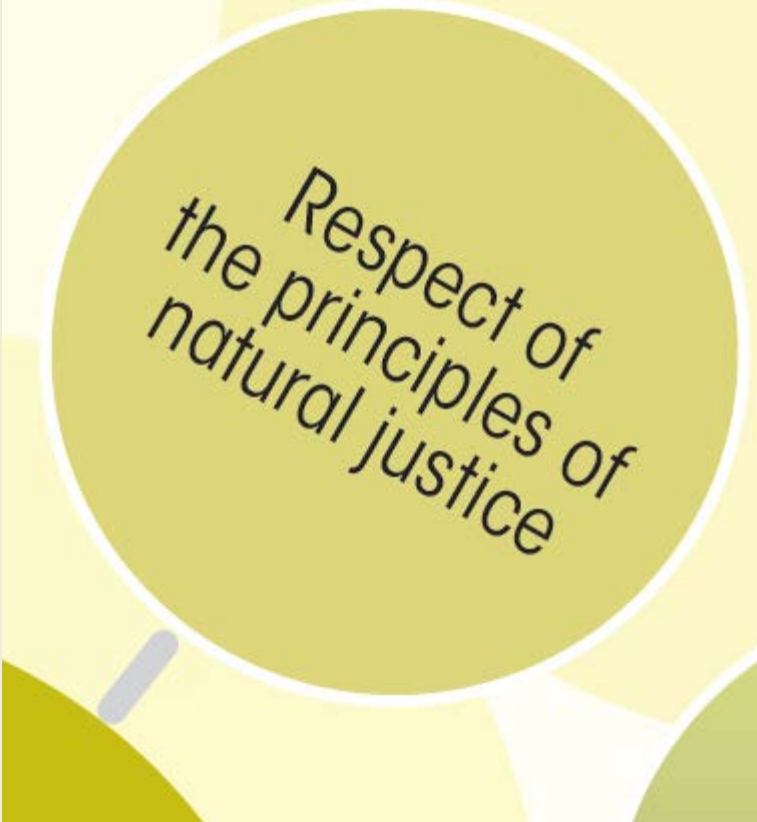
SCENARIO 4



COMPLAINANT
PERCEIVING
AN INJUSTICE

The right to be heard

- 
- ▶ Timely
 - ▶ Adequate notice about the nature of complaint
 - ▶ Be able to attend or be represented at the hearing
 - ▶ Have the right to refute a complaint, submit proof and argument, present witnesses (if necessary)



Respect of
the principles of
natural justice

Impartiality

- ▶ Decision made by individual free of conflicts of interest
- ▶ Decision takes into consideration all the evidence provided

To Play Fair:

- ▶ Be open and transparent
- ▶ Share policies and criteria
- ▶ Make sure they are easily accessible
- ▶ Consult members when changing / amending policies
- ▶ Be clear on intentions – purpose of process

Clear,
well-founded,
fair and transparent
decision-making
process

In your Policies:

- ▶ Use of clear and simple language
- ▶ Ensure decisions based on facts
- ▶ Clarify the room left for discretion (if any)
- ▶ Explain roles and responsibility of each member
- ▶ Give enough time for appeal

SCENARIO 6

**DECISION MAKER
UNFAMILIAR WITH
POLICY OR
MISINTERPRETING IT**

Human Resource Management

- ▶ Orientation / training
- ▶ Ensure understanding of roles and responsibilities
- ▶ Knowledge of decision-maker line management / hierarchy



Training of
volunteers

Policies need to be:

- ▶ Clear
- ▶ Simple language
- ▶ Complete (no gaps)
- ▶ Consistent (no contradictions)



Well-written
policies



Communication
of policies

Widen the Target:

- ▶ To all members: board, decision makers, athletes, coaches, etc.
- ▶ Make them accessible – shared: internet, direct email, publications, etc.

SCENARIO 2

**DECISION MAKER WITHOUT
PROPER AUTHORITY OR
COMPETENCE**

Decisions Made According To Policies

- ▶ Have the right people make the right decisions
- ▶ Make sure people with authority know their limits



Decisions
compliant
with policies
and rules



Responsibilities
matching
knowledge/skills

Human Resource Management

- ▶ Match volunteers and staff to specific positions
- ▶ Adjust of job descriptions
- ▶ Plan for reorganization when necessary

Human Resource Management

- ▶ Same as previous



Training of
volunteers

SCENARIO 3



DECISION-MAKING
INCONSISTENT
OVER TIME



Transition process
and knowledge
transfer

Make Sure to:

- ▶ Have a succession plan
- ▶ Allow “Overlapping” of mandates for better transition



Well kept
minute book

Minute Books...

- ▶ Help with transfer of information
- ▶ Help ensure consistency in decision making
- ▶ Are a great reference for your successors to eliminate redundancy



Archiving of documents

Archives help:

- ▶ Ensure consistency in decision-making
- ▶ Raise awareness of previous interpretations
- ▶ Consider previous sanctions or actions in similar circumstances

Applying Natural Justice

If the parent declares the conflict of interest
and withdraws for the discussion...

Which principle of natural justice is affected?

How would you modify the process to respect
it?

Questions?



www.sdrcc.ca / www.crdsc.ca

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