

AUSTRALIAN OLYMPIC COMMITTEE
(ABN 33 052 258 241)
(Registered Number A0004778J)



INFORMATIVE PRECIS

Olympic Team Selection By-Law

Introduction

This informative précis provides an overview of the Olympic Team Selection By-Law (“the By-Law”). It does not provide a substitution for it and where there is any inconsistency between the By-Law and this informative précis you are to have regard to the By-Law as the By-Law is the superior document. This informative précis has been produced for information purposes only and should not be relied upon for the purposes of interpretation of the By-Law.

Application of By-Law

The By-Law applies to Athletes, their relevant National Federations, officials and the AOC. Under clause 3, each National Federation advises the AOC of the Athletes that that National Federation recognises as competitors suitable for nomination to the AOC for the selection in an Australian Olympic Team or an Australian Olympic Winter Team.

Shadow Team

The AOC may then recognise the Athlete as a potential member of a particular Australian Olympic Team or Australian Olympic Winter Team.

In order for the Athlete to be recognised by the AOC as potential members of a particular Olympic Games Team or an Olympic Winter Games Team each Athlete must:

1. be eligible to participate in a particular Games as an Australian competitor;
2. not have engaged at any time in conduct which:
 - a. is publicly known and in the absolute discretion of the President of the AOC (or, during the period of any Games, in the absolute discretion of the Chef de Mission of the Team for those Games) has brought or would be likely to bring the Athlete, the Athlete's sport, the AOC or the Team into disrepute or censure, or

- b. is not publicly known and in the absolute discretion of the President of the AOC (or, during the period of any Games, in the absolute discretion of the Chef de Mission of the Team for those Games) would be likely to bring the Athlete, the Athlete's sport, the AOC or the Team into disrepute or censure were the conduct to be publicly known;
3. having complied strictly with the AOC Anti-Doping By-Law unless the Athlete has already been sanctioned under the AOC Anti-Doping By-Law and that sanction has been satisfied in full.

Selection Criteria and Participation Criteria

The AOC will adopt a Selection Criteria and provide a copy of that Selection Criteria to the National Federation. A Participation Criteria is also adopted by the International Olympic Committee and the International Federation responsible for the particular sport. The Selection Criteria is at all times subject to the relevant Participation Criteria.

The National Federation will, subject to the Participation Criteria and the Selection Criteria, adopt a Nomination Criteria which is the criteria used by the National Federation to choose Athletes to be nominated to the AOC for selection in a particular Team.

Nomination by National Federation

A National Federation will only be eligible to nominate Athletes if it has adopted an anti-doping policy that conforms with the World Anti Doping Code. Eligible National Federations will only nominate those Athletes who have:

1. demonstrated they are not suffering from any physical or mental impairment which, in the opinion of the National Federation, would prevent them from competing in the relevant Games;
2. complied with the relevant Participation Criteria unless the AOC has waived this requirement for a particular Athlete;
3. in the case of team events, the team having qualified under the relevant Participation Criteria and individual members having complied with the relevant Nomination Criteria;
4. in the case of individual Athletes, having complied with the Nomination Criteria; and
5. signed an Athlete Nomination Form, which will be issued from time to time by the AOC.

Selection by AOC

Once an Athlete has been accepted for nomination by the AOC, the AOC then selects the Athletes for a particular Team according to the Selection Criteria provided by the AOC. Selection of each Athlete will be conditional upon that Athlete;

1. signing the relevant Team Membership Agreement;
2. continuing to satisfy the Participation Criteria;
3. not have engaged at any time in conduct which:
 - a. is publicly known and in the absolute discretion of the President of the AOC (or, during the period of any Games, in the absolute discretion of the Chef de Mission of the Team for those Games) has brought or would be likely to bring the Athlete, the Athlete's sport, the AOC or the Team into disrepute or censure, or
 - b. is not publicly known and in the absolute discretion of the President of the AOC (or, during the period of any Games, in the absolute discretion of the Chef de Mission of the Team for those Games) would be likely to bring the Athlete, the Athlete's sport, the AOC or the Team into disrepute or censure were the conduct to be publicly known;
4. having complied strictly with the AOC Anti-Doping By-Law unless the Athlete has already been sanctioned under the AOC Anti-Doping By-Law and that sanction has been satisfied in full

Appeals

In the event that an Athlete is dissatisfied with the procedure involving the nomination by their National Federation to the AOC they have the right of appeal to an Appeal Tribunal established by their National Federation and in the event of dissatisfaction with that decision then a further appeal can be made by the Athlete to the Appeals Arbitration Division of the Court of Arbitration for Sport. Athletes cannot appeal to any other Court.

If the Appeals Tribunal or the Court of Arbitration for Sport is of the view that the outcome of an appeal may affect the interests of any person in addition to the appellant, it will, if practicable, notify that person and permit that person to participate in the hearing of the appeal as an affected party, to make submissions and to be bound by the decision of the Appeals Tribunal or the Court of Arbitration for Sport.

In the event that a person, after having been notified by the Appeals Tribunal or the Court of Arbitration for Sport, elects not to participate in a hearing as an affected party and be bound by the decision, then that person will forfeit their right of appeal unless that person has already appealed his or her nomination, non- nomination, selection or non-selection as the case may be.

The grounds on which an appeal can be made to the NF Appeal Tribunal are:

1. the relevant Nomination Criteria has not been properly followed and/or implemented;
2. that the Athlete was not given a reasonable opportunity to satisfy the Nomination Criteria;

3. the nomination decision was affected by actual bias;
4. there was no material on which the nomination decision could reasonably have been based;

or any combination of the above.

Written notice of the appeal must be given within 48 hours of the announcement of the decision and within 5 working days of the submission of the written Notice of Appeal the Athlete must submit to their National Federation the grounds of the appeal and pay a non-refundable deposit of \$100.

Court of Arbitration for Sport

The sole grounds for appeal to the Court of Arbitration for Sport are the grounds for the appeals to the Appeals Tribunal together with the following:

1. a breach of the rules of natural justice by the Appeals Tribunal; or
2. there has been an error on a question of law.

An appeal to the Court of Arbitration for Sport must be notified to the Athlete's National Federation within 48 hours of the announcement of the decision which is being appealed and then within 5 working days the Statement of Appeal must be filed with the Court of Arbitration for Sport.

Successful appeals will normally be referred back to the Athlete's National Federation for determination. In certain limited circumstances, the Court of Arbitration for Sport may however conclusively determine the issue of nomination or selection of Athletes.

Costs and Expenses of Appeal to Court of Arbitration for Sport

If a person appeals to the Court of Arbitration for Sport, under Rule 64.5 of the Code of Sports-related Arbitration, the Court of Arbitration for Sport will determine which party will bear the costs of the appeal and in which proportion, subject to the agreement between the AOC and CAS in relation to costs as outlined below.

An Athlete wishing to appeal must pay the CAS application fee of \$500. By agreement between CAS and the AOC, the AOC will pay CAS an advance of costs in the amount of \$2500.

A successful party to an appeal will be entitled to recover:

1. the CAS application fee of \$500; and
2. a contribution towards his or her or its reasonable legal costs up to a maximum of \$5,000.

An unsuccessful party to an appeal may be required to:

1. reimburse the AOC one half of the agreed CAS costs, namely \$1250; and

2. pay a contribution towards legal costs of the other party up to a maximum of \$5000.

In determining whether to make any, and if so what, contribution towards legal costs the Court of Arbitration for Sport will take into account:

1. whether and to what extent the Athlete concerned has utilized an Olympic Appeals Consultant before commencing his or her appeal;
2. nature and extent to which the National Federation concerned has co-operated with and assisted any Olympic Appeals Consultant utilized by the Athlete concerned;
3. the nature and extent that the successful party's relevant factual and legal position had been disclosed to the other party or parties prior to the commencement of the appeal;
4. the failure of any party to fully disclose his, her or its relevant factual and legal position to the other party before or at the commencement of the appeal;
5. the matters referred to in Rule 65.4 of the Code of Sports-related Arbitration, being the outcome of the proceedings, the conduct of the parties and the financial resources of the parties; and
6. such other matters as the Court of Arbitration for Sport deems relevant.