

SO, I'M AN AFFECTED PARTY?



WHO IS CONSIDERED TO BE AN AFFECTED PARTY?

According to the *Canadian Sport Dispute Resolution Code*, an Affected Party is a person who may be tangibly and adversely affected by a decision rendered by an SDRCC arbitrator, such as losing a previously granted status or privilege (selection, ranking, carding, etc.) This often occurs if the Claimant in a team selection or carding appeal is successful.

As a fundamental principle of natural justice, Affected Parties must be given the opportunity to try to safeguard their previously granted status or privilege. Inviting Affected Parties to take part in proceedings also avoids multiple successive appeals if the original decision under appeal is overturned.

To be named as an Affected Party, a person must have either:

- 1) been accepted as such by the parties involved in the proceedings; or
- 2) been accepted or named by a determination of the arbitrator.

PATHWAYS OF INVOLVEMENT FOR THE AFFECTED PARTY

Once a person is confirmed as an Affected Party to a proceeding, the relevant sport organization will be asked to provide the SDRCC with contact information, minimally a valid email address. Because maintaining accurate contact records for its members is a responsibility shared by the sport organization and individual members, the SDRCC will rely on the information provided.

The SDRCC will then issue a *Notice to the Affected Party* which will formally inform that person of the existence of the case, its urgency and instructions to follow to obtain more information about the case. Some cases at the SDRCC can be heard within hours, so it is best not to set this email aside without reading it first.

For confidentiality reasons, very few details are provided to the Affected Party in that first correspondence. A *Confidentiality Agreement* is attached to the email message and Affected Parties can sign and return that form to the SDRCC to obtain more information on the case.

On the following page is a flowchart that illustrates various pathways available to the Affected Party from that point on.

STEP
A **UPON RECEIPT OF THE NOTICE TO THE AFFECTED PARTY/IES**

1 **OPTION #1 : TAKE NO FURTHER ACTION**

If you decide not to return the *Confidentiality Agreement* form duly completed and signed, your involvement in the case will end there, but you will still be bound by the outcome of the case and the decision eventually rendered by an Arbitrator, even if it is unfavourable to your situation.

If you later decide to file your own appeal with regards to this dispute, you will have to provide an explanation to the Arbitrator as to the reasons why you did not engage in the process when you were first given the opportunity.

BE AWARE!

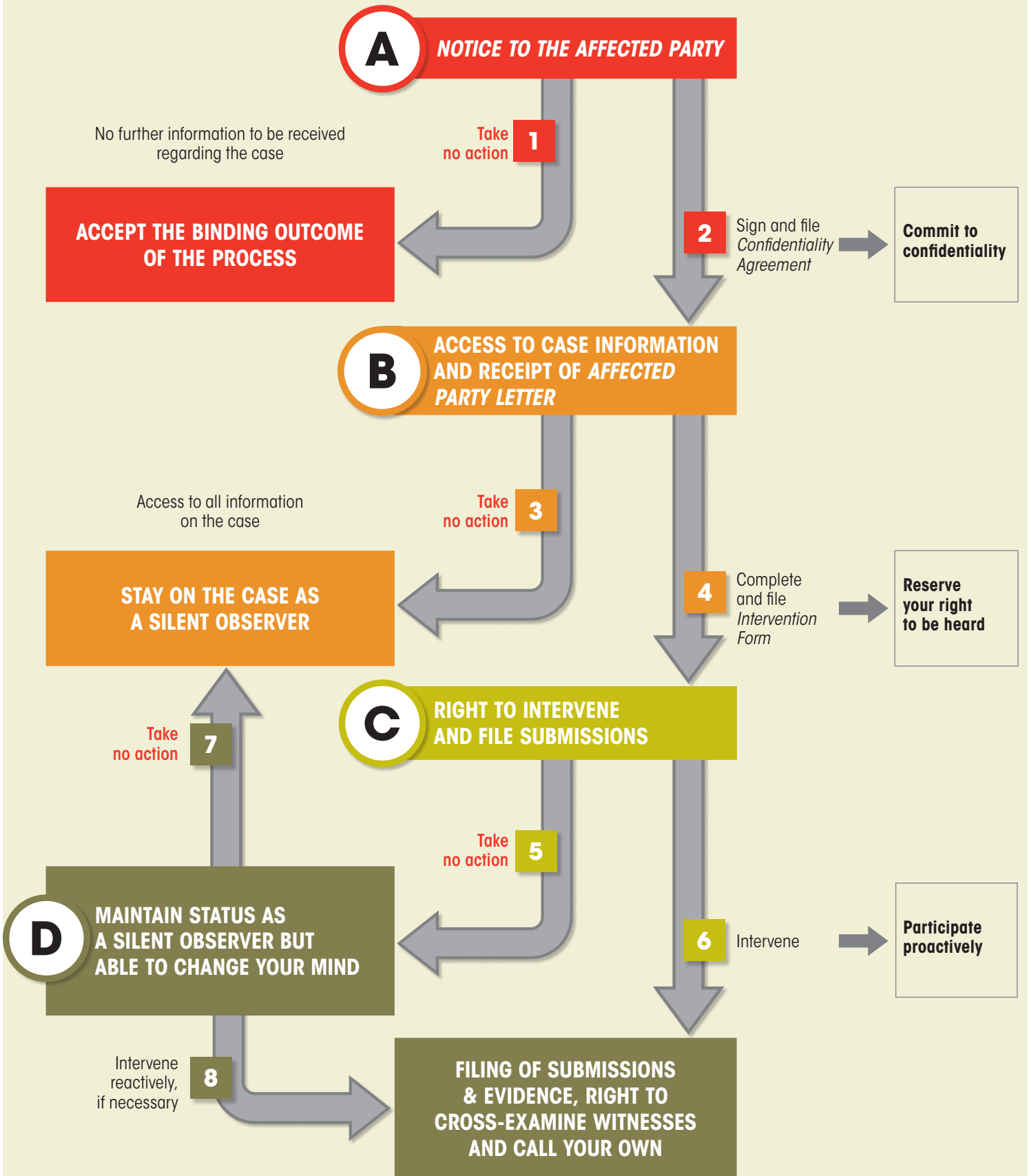
A few athletes have, in the past, found themselves in the unfortunate situation of being bound by an unfavorable decision, as they assumed the appeal was without merits before even having taken the time to understand what it was about.

RIGHT TO REPRESENTATION

Like any other party to SDRCC proceedings, an Affected Party has the right to be represented during the entire hearing process and can also add one or more representative(s) at any stage. One does not need to be a lawyer to act as a representative or spokesperson. You can ask a friend, a parent, a coach or any other person of your choice. Any person you designate to represent you will be bound by the same confidentiality rules as you are.

An Affected Party considered a minor under the laws of their province of residence must be represented by an adult, either a parent or legal guardian, or another designated adult.

VARIOUS PATHWAYS AVAILABLE TO THE AFFECTED PARTY



STEP

A

UPON RECEIPT OF THE NOTICE TO THE AFFECTED PARTY/IES

2

OPTION #2 : RETURN THE COMPLETED AND SIGNED CONFIDENTIALITY AGREEMENT TO THE SDRCC

If you return the *Confidentiality Agreement* form duly completed and signed, you will receive a letter from the SDRCC entitled *Letter to the Affected Party*. Among other things, it normally sets out a deadline for you to file an *Intervention Form* (see **Step B** on the right). You will also be informed of the next procedural step in the case, which can be an administrative conference call, a preliminary meeting, a mediation or resolution facilitation session or a hearing. At the same time, you will be granted access to the SDRCC Case Management Portal (CMP) to review online all the documents pertaining to the case, as well as the calendar of proceedings and all SDRCC correspondence from before you joined the case. Reviewing the documents filed by the other parties (under the *Party Filings* tab of the CMP) will enable you to understand what the case is about and how its outcome might impact you. You may also want to consult the notes of meetings that took place before you joined the case (under the *Admin Documents* tab of the CMP) to stay on top of the situation.

By virtue of having signed the *Confidentiality Agreement*, you are now bound by the confidentiality rules contained in the *Canadian Sport Dispute Resolution Code*. Even if you opt out of taking part in the proceedings, you are committed to such confidentiality rules and may not share with people who are not parties to the case at hand any information you have obtained from accessing the CMP or attending meetings/hearings. Exceptions can be made if you are seeking representation or legal assistance and you need to share information with the person who may represent you. However, please understand that you are responsible for any breaches of confidentiality caused by people with whom you have shared information about the case for that purpose.

STEP

B

UPON RECEIPT OF THE LETTER TO THE AFFECTED PARTY AND CMP CREDENTIALS

3

OPTION #3 : TAKE NO FURTHER ACTION AND REMAIN A SILENT OBSERVER

Upon thorough review of the case and perhaps after seeking guidance on your options or obtaining advice on the chances of success of the other parties to the dispute, you may decide that you do not wish to be involved in the case. If you want to be removed from the CMP and receive no further notice or correspondence from the SDRCC about this case, you may request so.

You can also decide to remain on the CMP and continue to receive information about the case, you can attend meetings, mediation sessions and hearings, but you will not be able to intervene.

In most cases before the SDRCC, the Respondent to an appeal is the sport organization of the Affected Party. It is often the case that the sport organization will defend its original decision, which is typically favorable to the Affected Party. However, because it is not always the case, it is recommended to the Affected Party to assess to what degree the positions articulated by the parties already involved in the proceedings speak in their favor. If, upon review of the other party filings, the Affected Party believes they possess information that has not been put forward and that might help the Arbitrator rule in their favor, consideration should be given to **Option #4** on the right.

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OPTION #4 : FILE AN INTERVENTION FORM

The *Intervention Form* is typically the first opportunity for the Affected Party to express their position on the dispute for the other parties and the Arbitrator to review. It is also the only way for you to reserve your right to intervene in the proceedings to add relevant information to the case or correct omissions, errors or misinterpretations in other parties' positions and documents.

The *Intervention Form* is mostly administrative in nature and is used by the SDRCC staff to validate the parties' wishes and preferences with regards to the format or the language of the proceedings, or on the selection of the Arbitrator, if not yet been appointed. It is also used by the other parties and the Arbitrator to understand generally the position of the Affected Party. It is not necessary at the time of filing the *Intervention Form* to have formulated your position and arguments completely. However if the case is heard on an expedited basis, the timelines to file additional documents may be very short.

STEP**AFTER FILING THE INTERVENTION FORM****5****OPTION #5 :
TAKE NO ACTION BUT REMAIN ON STANDBY**

Once the *Intervention Form* is completed and submitted to the SDRCC, the Affected Party may choose to be on standby as a silent observer, or speak solely on matters regarding scheduling of the next steps (including the hearing) or simply to reserve the right to make submissions. As previously mentioned, by virtue of having filed the *Intervention Form*, you will have the right to participate and can always change your mind if deemed necessary, as long as this is done within the procedural orders and the calendar of proceedings set out by the Arbitrator (see **Step D** on the right).

While on standby, it is important to continue to read the communications of the SDRCC and the filings of the parties. That is the best way to keep on top of things and to know, at any given time, if it is appropriate or necessary for you to become active on the case.

6**OPTION #6 :
PARTICIPATE PROACTIVELY IN THE PROCESS**

The Affected Party having filed an *Intervention Form* can engage in several ways with all the same rights as other parties to the case: file submissions, reply to other parties' submissions, speak at the hearing, present witnesses at the hearing, and cross-examine other parties' witnesses. All with the intention of fully defending one's position on the issue(s) in dispute. In order to take a proactive role, it is preferable that the Arbitrator be advised of your intentions, so that a deadline to file your documents is set in the calendar of submissions, and time is set aside at the hearing to allow you to present your case.

You may look at the documents entitled *What are Submissions?* and *Getting Ready for the Hearing*, to find more information on how to build submissions and how to prepare yourself for the hearing.

STEP**WHEN ON
"STANDBY" MODE AS
AN AFFECTED PARTY**

For Affected Parties who have decided on **Option #5** on the left and are on standby, still undecided on whether to engage actively, there are two scenarios which may play out, as described below.

7**OPTION #7 :
REMAIN A SILENT
OBSERVER**

If nothing is filed or said by the other parties that warrants an intervention by the Affected Party, the Affected Party may end up being a silent observer and not engage in the case at all. As an Affected Party in that position, it is important to continue to follow closely how the case unfolds, so that you are aware of and respect any time limits, in order to retain the opportunity to intervene, should you change your mind and decide to engage.

8**OPTION #8 :
INTERVENE
REACTIVELY**

During the proceedings, if facts are presented to the Arbitrator that the Affected Party knows to be untrue or incomplete, the Affected Party may decide to intervene to contradict such facts by way of counter-evidence, to correct such facts or inaccuracies or to complement the facts with additional information that is relevant to the issue(s) in dispute. The level of participation of the Affected Party then becomes similar as in **Option #6** on the left. Again, it is preferable to let the Arbitrator know, early in the process, that you reserve your right to intervene. This way the planning of the proceedings can allow for you to do so.

**TO CONTACT US**

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