

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



**GUIDE TO
OLYMPIC TEAM SELECTION**

Introduction

This is a Guide to the AOC Selection By-Law (“the By-Law”) and the process by which nomination and selection to the Olympic Team takes place.

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 a potential member of and in order to be eligible for selection to 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.
 - (a) acknowledge that they have not at any time engaged in conduct (whether publicly known or not), which has brought or would have the tendency to bring the Athlete or the Athlete’s sport into disrepute or censure, or which would be inconsistent with, contrary to or prejudicial to the best interests, image or values of the AOC, or as a result of which the Athlete’s membership would not be in the best interests of the Australian Olympic Team or Shadow Team;
 - (b) acknowledge that they have not at any time been convicted of, or charged with, any serious offence involving alcohol or drugs, or any sex offence, or any offence which is punishable by imprisonment;

- (c) acknowledge that they have and will continue to honestly and fully disclose information to the Athlete's NF and the AOC concerning any conduct that might be in breach of (a) above or concerning any criminal offence of whatever nature, with which the Athlete has been charged, or of which the Athlete has been convicted, and consent to the Athlete's NF and the AOC making enquiries to relevant authorities for any details of the Athlete's criminal record (if any), including details of any charges pending or any spent convictions disclosable by law, and consent to those authorities providing that information in answer to those enquiries;
 - (d) acknowledge that any matter arising under (a), (b) or (c) above is to be determined, or breach thereof excused, by the AOC in its sole and absolute discretion.
3. have 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 to the satisfaction of the National Federation that they are not suffering from any physical or mental impairment which would prevent them from competing in the relevant Games to the highest possible standard;
- 2. demonstrated that they have complied with the relevant Participation Criteria unless the AOC has waived this requirement for a particular Athlete;
- 3. have met the relevant Nomination Criteria and in the case of team events, the team has qualified under the relevant Participation Criteria;
- 4. in the case of individual Athletes, have complied with the Nomination Criteria; and

5. signed an Athlete Nomination Form, issued by the AOC from time to time.

Selection by AOC

Once an Athlete has been nominated by the National Federation, 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 on condition that the Athlete;

1. has signed the relevant Team Membership Agreement;
2. has continued to satisfy the Participation Criteria;
3.
 - (a) has not at any time engaged in conduct (whether publicly known or not), which has brought or would have the tendency to bring the Athlete or the Athlete's sport into disrepute or censure, or which would be inconsistent with, contrary to or prejudicial to the best interests, image or values of the AOC, or as a result of which the Athlete's membership would not be in the best interests of the Australian Olympic Team;
 - (b) has not at any time been convicted of, or charged with, any serious offence involving alcohol or drugs, or any sex offence, or any offence which is punishable by imprisonment;
 - (c) has and will continue to honestly and fully disclose information to the Athlete's NF and the AOC concerning any conduct that might be in breach of (a) above or concerning any criminal offence of whatever nature, with which the Athlete has been charged, or of which the Athlete has been convicted, and consents to the Athlete's NF and the AOC making enquiries to relevant authorities for any details of the Athlete's criminal record (if any), including details of any charges pending or any spent convictions disclosable by law, and consents to those authorities providing that information in answer to those enquiries;
 - (d) acknowledges that any matter arising under (a), (b) or (c) above is to be determined, or breach thereof excused, by the AOC in its sole and absolute discretion.
4. has not breached the AOC Anti-Doping By-Law, unless the Athlete has already been sanctioned for the breach and that sanction has been completed

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 Appeals 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. All Athletes agree that they 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 Appeals 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 be based;

or any combination of the above.

Written Notice of the Appeal must be served within 48 hours of the Athlete having received written notice of the decision and by no later than the close of business 5 working days after the service of the written Notice of Appeal the Athlete must serve upon 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 against a decision of the Appeals Tribunal are:

1. a breach of the rules of natural justice by the Appeals Tribunal; or
2. that the decision was in error on a question of law.

A Notice of Appeal to the Court of Arbitration for Sport must be notified to the Athlete's National Federation within 48 hours of the Athlete having received written notice of the Appeals Tribunal decision and then by no later than close of business 5 working days after service of the Notice of Appeal, a Statement of the Grounds 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 of re-nomination. In certain limited circumstances, the Court of

Arbitration for Sport may however conclusively determine the issue of nomination or re-nomination of Athletes.

Similar rules apply to appeals against AOC decisions on non-selection or re-selection. However, the possible grounds of appeal are much narrower.

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 provisions of clause 12 of the By-Law as outlined below.

The position as to costs of an appeal differ depending upon whether the parties have agreed to the appeal being heard by a sole arbitrator on the one hand or whether, on the other hand, the appeal is to be heard by a panel of three arbitrators.

Where the appeal is heard by a sole arbitrator:

- (a) the party wishing to appeal must pay the CAS application fee of \$500;
- (b) the AOC will pay the CAS costs which, by agreement between CAS and the AOC, are fixed at \$2,500;
- (c) if the appeal is successful, the AOC will reimburse the \$500 application fee to the party who paid it;
- (d) if the appeal is unsuccessful, the AOC will not reimburse the application fee and may also, in its absolute discretion, require the unsuccessful party to repay to it one half of the CAS costs, namely \$1,250;
- (e) the legal costs of the successful party recoverable from the unsuccessful party are limited to the sum of \$5,000;
- (f) in determining whether the unsuccessful party should pay any, and if so what, contribution towards the legal costs of the successful party CAS is to have particular regard to:
 - (i) whether and to what extent the Applicant concerned has utilised an Olympic Appeals Consultant before commencing his or her appeal;
 - (ii) whether and to what extent the National Federation concerned has co-operated with and assisted any Olympic Appeals Consultant utilised by the Athlete concerned;
 - (iii) whether and to what extent the successful party's factual and legal position had been disclosed to the other party or parties prior to the commencement of the appeal;
 - (iv) the failure of any party to disclose his or her or its relevant factual and legal position to the other party before or at the commencement of the appeal; and
 - (v) the matters referred to in Rule 64.5 of the Code of Sports-Related Arbitration, being the general rule that the unsuccessful party shall make some contribution towards the legal costs of the successful

party, the outcome of the proceedings, the conduct of the parties and the financial resources of the parties; and

- (vi) such other matters as the Court of Arbitration for Sport deems relevant.

Where the appeal is heard by a panel of three arbitrators, the same rules apply except that: the AOC will contribute the sum of \$2,500.00 towards the CAS costs and, subject to any award of CAS to the contrary, the parties shall be liable to pay to CAS, in equal shares, any costs of CAS in excess of \$2,500. In the event that CAS requires payment in advance of the estimated CAS costs, the parties shall make advance payment in equal shares. CAS may rule as part of its award that any payment made in excess of \$2,500 be reimbursed by one party to the other.

Interpretation

This Guide does not provide a substitution for the By-Law. Where there is any inconsistency between the By-Law and this Guide, the By-Law prevails. This Guide has been produced for information purposes only and should not be relied upon for the purposes of interpretation of the By-Law.