

**SWIM PEI
2009 CANADA GAMES SELECTION CRITERIA**

1. INTRODUCTION

1.1 Eligibility

All athletes must be registered with Swimming/Natation Canada.

Athletes who were born in 1990 or later, who are fully registered with Swim PEI prior to the qualification event takes place, and who meet the criteria established by the Canada Games Council. Please refer to the 2009 Canada Games Technical Package for additional requirements on eligibility (see Appendix "A").

Special Olympic athletes who were born in 1978 or later, who are fully registered with PEI Special Olympic Association prior to the qualification event takes place, and who meet the criteria established by the Canada Games Council.

SWAD athletes (athletes with a physical disability) who were born in 1988 or later, who are fully registered with Swimming PEI prior to the qualification event takes place, and who meet the criteria established by the Canada Games Council. Please refer to the 2009 Canada Games Technical Package for additional requirements on eligibility (see Appendix "A").

1.2 Team Size

A maximum team complement of 16 female and 16 male swimmers will be selected. Two of the female team positions and two of the male team positions are reserved exclusively for swimmers with a disability classified under the Functional Classification System, classes 1 - 13. Two of the female team positions and two of the male team positions are reserved exclusively for Canadian Special Olympic Swimmers.

1.3 Swimmer Commitment

A 2009 Canada Games Team Contender's Declaration (Appendix "B") must be submitted at the coaches' meeting on the Thursday evening immediately before the 2009 Canada Games Trials. Before being considered for selection to the Team, each swimmer must sign a letter of commitment agreeing to participate fully on the provincial training program leading up to the Games. A copy of the sample letter of commitment is attached as Appendix "C" at the back of this document. A list of those considered eligible for selection to the Team will be posted before the start of the meet. All swimmers must also be prepared to provide proof of age if requested at any time.

Section 2: SELECTION CRITERIA

2.1 Pre-Qualification

Athletes attempting to qualify for the 2009 Canada Games Team may do so at any FINA sanctioned meet held after November 1, 2008 to the start of the 2009 PEI Canada Games Trials, May 29, 2009, where the athlete achieves a minimum of 725 points on the FINA Performance Point Charts scored from eligible swim in the "OPEN" category.

2.2 Athlete Selection at the Trials

- 2.2.1 All athletes attempting to qualify for the 2009 Canada Games Team must compete in the "OPEN" category at the PEI 2009 Canada Games Trials. Performances in the "OPEN" category finals that have met the standard of performance will be considered first for selection. If the standard of performance has not been met by any athlete in the "OPEN" category finals then performances from the "OPEN" category preliminaries that have met the standard of performance will be considered. Athletes who have pre-qualified are required to compete at the Trials however, their pre-qualification results will be used for the selection purposes
- 2.2.2 Only three swimmers who are not eligible for selection to the Canada Games Team may swim in the finals of the open category at 2009 Canada Games Trials.
- 2.2.3 If an athlete is unable to compete at the Trials due to exceptional circumstances, i.e. illness, injury, etc., then communication in writing, with appropriate documentation, shall be placed in the hands of the Selection Committee, prior to the commencement of the Trials and that athlete may be considered for team selection.
- 2.3 Event Selection
Athletes will be considered for selection based on points (minimum is the PEI 2009 Canada Games Standards of Performance) scored from eligible swims.
- 2.3.1 Event winners are automatically selected, provide that (a) the positions are available after pre-qualification; (b) the event winners had achieved the PEI 2009 Canada Games Standards of Performance. If there are 17 winners, the 12 swimmers who have achieved the highest points will be selected unless the pre-qualification has taken place, where the winners for the vacant events will be selected.
- 2.3.2 After the winners are selected, the swimmer scoring the next highest points in an individual swim (minimum PEI 2009 Canada Games Standards of Performance) will be selected to the team to a maximum of 2 per event. A freestyle relay consideration may be chosen to a maximum of 4.
- 2.4 Alternate Trials Qualification
An athlete may qualify for the 2009 Canada Games Team provide that a place on the team remains open after both 1) pre-qualification and 2) athletes from the 2009 Canada Games Trials are selected. Post-qualification may occur by achieving the minimum PEI 2009 Canada Games Standards of Performance in eligible swims at either the 2009 East Coast Short Course or Long Course Championships. Should more athletes qualify than there are remaining vacant spots on the team, the swimmer that achieves the highest points on the FINA Performance Point Charts will be selected to the team.
- 2.5 In the Event of a Tie
 - 2.5.1 For the 1st or 2nd place in an individual event, there will be a swim-off to determine these places. The time and date of the swim-off will be determined by the Selection Committee with input of the swimmers and coaches involved, but will take place no later than the day immediately following the Canada Games Trials.
 - 2.5.2 For the 12th position on the Canada Games Team, if there is a tie in points after relay considerations, the swimmer who has the next highest point swim swum during finals at the Trials will be selected. If there is a tie again, then the next highest point swim will be used and so on and so on.

2.6 Alternates

In the event that a selected athlete is deemed unable to represent the province, the athlete will be asked to withdraw him/herself from the Team, and an alternate swimmer who meets the Canada Games selection standards shall be named to the Team by the Selection Committee. This will be done in accordance with the event(s) of the withdrawing athlete and the other considerations under the Event Selection.

2. DISCIPLINE AND APPEALS

3.1 Discipline

Team Management shall consist of the team manager and coaches of the New Brunswick Canada Games Team. In the event of an athlete failing to honor his/her commitment or breaking team rules regarding training or conduct, Team Management, with all necessary documented records, shall have the power to discipline the athlete, including dismissing the athlete from the Team. In the event that the athlete is dismissed from the Team, he/she or a parent or guardian will have the right to appeal that decision to the Appeals Committee by written notice delivered to the Swim PEI Office within one week from the day on which the decision of Team Management is communicated to the athlete. In that event, the Appeals Committee shall render its decision within two weeks from the day the notice is delivered to Swim PEI Office and its decision shall be final.

3.2 Appeals

After selections have been announced, if an athlete believes that grounds for appeals exist and wishes to appeal the decision, the athlete or his/her coach must deliver in writing, a formal appeal, by noon on the Friday immediately following the Canada Games Trials, to the Swim PEI Office, clearly stating the reasons why he/she should have been selected. The decision of the Appeals Committee shall be rendered by the third Friday following the Canada Games Trials, (unless all interested parties agree to any reasonable adjournments) and shall be final. This procedure will also be followed for appeals of selection of alternates to the Team.

Swim PEI Appeals Policy as outlined in Schedule "D".

In the event of a Special Olympics athlete failing to honour his/her commitment or breaking team rules regarding training or conduct, the coach assigned to the Special Olympics athlete, with all necessary documentation shall have to power to make recommendation to PEISO regarding any decision to any disciplinary action that may be necessary.

SWAD athletes discipline and appeals shall be governed by the same rules as the able bodied athletes.

3.3 Committees

The members of the Selection Committee and the Appeal Committee shall be named by the Board of Directors of Swim PEI.

3. ELIGIBILITY

If a discrepancy exists between this document and the 2009 Canada Games Swimming

Technical Package (Appendix A), the information in the Technical Package will be deemed to be correct.

(Excerpt from the 2009 Canada Games Technical Package)

Competitors:

Excluded from the Canada Games are:

- (a) Athletes that have held Senior cards (as defined by Sport Canada's Athlete Assistance Program) at any time;
- (b) Athletes that have been Canadian Senior National Team Members at any time or who have competed for any *other* nation at any Pan American Games, Commonwealth Games, Olympic Games, FISU Games, Pan Pacific Championships, Senior World Aquatic Championships, Paralympic Games, World Championships for Swimmers with a Disability or World Special Olympics.
- (c) Athletes that hold C cards (including C1, C2, or C3) for any length of time between August 5, 2008 and May 7, 2009.

No athlete can be rendered ineligible within 90 days of the opening of the Games due to carding status or national team status (i.e., no athlete will be excluded if they become Canadian National Senior Team members for the first time or are granted carding status after May 7, 2009).

4. ETHICS

The following portion of the Canada Games Criteria is provided as an information supplement. It has been appended to attempt to provide guidance for those charged in *any way* with the management of athletes who compete in the Swim PEI Canada Games Trials. It is hoped to be especially beneficial to coaches.

The Code of Ethics and Conduct of the Canadian Swim Coaches Association (www.csa.org.) contains the following provision:

HUMANITY

- 1.1 Members should endeavor to respect the right, dignity, and worth of every human being and their ultimate right to self-determination. Specifically, members should endeavor to treat everyone equally, within the context of their activity, regardless of sex, ethnic origin, religion or political persuasion.

PERSONAL STANDARDS

- 1.22 Members are expected to consistently display high standards and project a favorable image of their sport and of coaching to swimmers, to other coaches, officials, club administrators, spectators, the media, and the general public.

An example of the kind of behavior that might result in sanction is found in the case of *Depiero v. Canadian Amateur Diving Association (1985)*. In that case the athlete, Depiero, was competing in a dive competition leading to the Canada Games team selection for Ontario. Another athlete on his team who had already qualified was scratched from the final dive of the competition to

allow Depiero a better opportunity to win and be selected. Depiero won and was named to the team.

The CADA held that the coach's conduct violated the rules of fair play and suspended the coach for one year. Depiero was removed from the team on appeal but reinstated at a subsequent appeal to the courts. The coach's suspension was not reversed. Subsequently, rules were drafted to specifically prevent recurrence of this conduct.

It is clear from such cases that other more deliberate conduct, such as counseling an athlete to give less than her or his best effort will be deserving of sanction.

In cases where it is shown that an athlete and coach have agreed to give less than the best performance possible in an event not only the coach, but also the athlete may be liable to suspension if it is being done to achieve a predetermined goal of producing an artificial outcome. This would be the case where a less than complete effort by one athlete would likely produce another winner that the coach and athlete agreed was someone who they hoped to win the particular competition.

Appendix "B"

2009 CANADA GAMES TEAM CONTENDER'S DECLARATION

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

- 1) meet the eligibility requirement of Swim PEI 2009 Canada Games Selection Criteria;
- 2) intend to compete in "OPEN" category at the Canada Games Trials (date and location in 2009)
- 3) would like to be considered for the Team Selection.

Swimmer's Name: _____

Date of Birth: _____

Club: _____ Sex: _____

Head Coach's Name: _____

Swimmer's Signature: _____

Parent's or Guardian's Signature: _____

(if the swimmer is under 18)

Club Head Coach's Signature: _____

All forms must be returned to Swim PEI 2009 Canada Games Selection Committee no later than the Technical Meeting at the 2009 Canada Games Trials.

Appendix “C”

**2009 CANADA GAMES TEAM
LETTER OF COMMITMENT**

As a member of the 2009 Canada Games Hopefuls for Swim PEI, I agree to the following conditions should I be selected on the 2009 Canada Games Team after the Trials in May:

1. To work co-operatively with the Management Team and other Team members.
2. To take directives from the Management Team.
3. To be available for all training activities.
4. To set an example of acceptable behaviour.
5. To consume no alcoholic or illegal substance during training activities and competitions.
6. To comply with all required Drug Testing and Doping Control

Note: If a swimmer takes part in Canada Games Team activities and then wishes to withdraw from the Team, must repay Swim PEI the amount spent on their individual training activities.

Signed: _____
(Swimmer)

Signed: _____
(Parent or Guardian)

Date: _____

Appendix "D"

Swim PEI APPEALS POLICY

NOTE: In this policy "member" refers to all categories of members in Swim PEI, as well as to all individuals engaged in activities with or employed by Swim PEI, 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 Swim PEI 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 Swim PEI.

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 Swim PEI;
 - 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.

TIME-LINES

13. If the circumstances of the dispute are such that this policy will not allow a timely appeal, the Panel may direct that these time-lines be abridged. If the circumstances of the disputes are such the appeal cannot be concluded within the time-lines dictated in this policy, the Panel may direct that these time-lines 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 Swim PEI 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 Charlottetown, 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 PEI.
20. No action or legal proceeding shall be commenced against Swim PEI 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.