



# Wrestling Australia Ltd

ABN: 27 644 021 545

**Email:** [admin@wrestling.com.au](mailto:admin@wrestling.com.au)  
[president@wrestling.com.au](mailto:president@wrestling.com.au)

**Web:** [www.wrestling.com.au](http://www.wrestling.com.au)

**POSTAL:** PO Box 10 KINGSWAY, WA 6065

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## Wrestling Australia Limited

### Nomination Criteria

#### 2022 Commonwealth Games, Birmingham (United Kingdom)

Version 7

as at 24 March 2022

#### 1 General and Introduction

- 1.1 This Nomination Criteria is issued by the Board of Wrestling Australia, for the purpose of specifying the process and system that will be applied in relation to nominating eligible Athletes to Commonwealth Games Australia, for selection in the 2022 Australian Commonwealth Games Team.
- 1.2 Wrestling Australia may only nominate Athletes to Commonwealth Games Australia in accordance with this Nomination Criteria.
- 1.3 It is solely the responsibility of Commonwealth Games Australia, to make selection decisions regarding the 2022 Australian Commonwealth Games Team.
- 1.4 The Nomination Criteria will take effect on and from 20<sup>th</sup> July 2021, and will cease to be of effect at the conclusion of the 2022 Commonwealth Games on 8 August 2022 (inclusive).
- 1.5 This Nomination Criteria applies to:
  - 1.5.1 Athletes;
  - 1.5.2 Wrestling Australia;
  - 1.5.3 The Nomination Panel and its members; and
  - 1.5.4 Commonwealth Games Australia.
- 1.6 Once this Nomination Criteria takes effect, the Nomination Criteria may only be amended by Wrestling Australia with the prior written approval of Commonwealth Games Australia.
- 1.7 In any circumstance where this Nomination Criteria is amended in accordance with **clause 1.6**, the amended Nomination Criteria must be notified to all eligible and affected Athletes as soon as practicable after the amendment(s) is made. The amended Nomination Criteria must also be published on Wrestling Australia's website (<http://wrestling.com.au/>).

## 2 Definitions and Interpretation

2.1 Unless otherwise defined in this Nomination Criteria, the following terms have the corresponding meanings when used in this Nomination Criteria:

- 2.1.1 **2022 Commonwealth Games** means the Commonwealth Games to be held in Birmingham, United Kingdom and which are conducted under the auspices of the Commonwealth Games Federation.
- 2.1.2 **2022 Australian Commonwealth Games Team** means the Australian team for the 2022 Commonwealth Games, selected by Commonwealth Games Australia.
- 2.1.3 **Athlete** means a person who participates in the Sport, and who is recognised by Wrestling Australia or Commonwealth Games Australia as being available (subject to being eligible, as specified in this Nomination Criteria) for nomination to Commonwealth Games Australia for selection in the 2022 Australian Commonwealth Games Team pursuant to this Nomination Criteria.
- 2.1.4 **Board** means the board of directors of Wrestling Australia.
- 2.1.5 **Commonwealth Games Australia** means Commonwealth Games Australia Limited ACN 629 915 448.
- 2.1.6 **Commonwealth Games Australia Anti-Doping Rules** means and includes any anti-doping rules and policies enacted by Commonwealth Games Australia.
- 2.1.7 **Commonwealth Games Australia Nomination and Selection Appeals By Law** means the by law enacted by Commonwealth Games Australia, which applies to appeals commenced in accordance with **clause 11**.
- 2.1.8 **Commonwealth Games Federation** means the organisation by that name registered in England, Registered Company Number 10449637.
- 2.1.9 **Extenuating Circumstances** means:
- 2.1.9.1 Injury or illness.
  - 2.1.9.2 Unavoidable travel delays.
  - 2.1.9.3 Bereavement or disability caused by the death of a spouse, de facto partner, child, parent, grandparent, grandchild or sibling.
  - 2.1.9.4 An unanticipated event occurring during the period of the Qualifying Event.
  - 2.1.9.5 Any other factors considered by Wrestling Australia to properly constitute extenuating circumstances.
- 2.1.10 **National Sports Tribunal** means the tribunal established by the *National Sports Tribunal Act 2019* (Cth).
- 2.1.11 **Nomination Criteria** means this document, as amended from time to time.
- 2.1.12 **Nomination Date** means 6 June 2022.
- 2.1.13 **Nomination Factors** means the factors and relevant considerations specified in **clause 8**.

- 2.1.14 **Nomination Panel** means the selection panel appointed by the Board, comprising of John Saul, Yareni Guerrero and a representative from the Combat Institute of Australia.
- 2.1.15 **Pre-Nomination Camps** means the subject camps organised by Wrestling Australia, scheduled for 23 to 28 April 2022 (inclusive), which will be held at the Australian Institute of Sport in Canberra, ACT; and then 16 to 20 May 2022 (inclusive), which will be held at the Australian Institute of Sport in Canberra, ACT.
- 2.1.16 **Post-Nomination Camp** means the subject camp organised by Wrestling Australia, scheduled for 3 to 31 July 2022 (inclusive).
- 2.1.17 **Pre-Nomination Competition** means Wrestling Australia's Senior National Championships, to be held in Canberra, ACT on 15 May 2022.
- 2.1.18 **Secretary** means the secretary of Wrestling Australia, whose email address for service for the purpose of this Nomination Criteria is [admin@wrestling.com.au](mailto:admin@wrestling.com.au).
- 2.1.19 **Selection Criteria** means any applicable policies and criteria enacted by Commonwealth Games Australia in relation to its selection of Athletes as members of the 2022 Australian Commonwealth Games Team.
- 2.1.20 **Sport** means the sport of wrestling in its various disciplines, including **Freestyle** and **Greco Roman**.
- 2.1.21 **Sport Integrity Australia** means the Commonwealth government agency by that name.
- 2.1.22 **Team Agreement** means any contract (including its appendices, schedules and incorporated documents) which Commonwealth Games Australia requires that an Athlete sign in consideration for the selection or prospective selection of the Athlete in the 2022 Australian Commonwealth Games Team.
- 2.1.23 **United World Wrestling** means the organisation by that name which is based in Corsier-sur-Vevey, Switzerland. United World Wrestling is the international governing body for the Sport in its various disciplines.
- 2.1.24 **UWW Change of Nationality Rules** means the *International Rules for the Change of Nationality (Version July 2019)* enacted by United World Wrestling, as amended.
- 2.1.25 **Wrestling Australia** means Wrestling Australia Limited ACN 644 021 545. Wrestling Australia is the Australian national sports organisation for the Sport in its various disciplines, and is recognised as such by United World Wrestling.
- 2.1.26 **Wrestling Australia Code of Behaviour** means the document by that title, which is accessed at <http://wrestling.com.au/policies-forms-documents/>.
- 2.1.27 **Wrestling Australia Education Plan** means the document by that title, which can be obtained by emailing the Secretary at [admin@wrestling.com.au](mailto:admin@wrestling.com.au).
- 2.2 The following rules of interpretation apply to this Nomination Criteria:
- 2.2.1 Unless otherwise specified, a reference to a clause is a reference to a clause of this Nomination Criteria.
- 2.2.2 The singular includes the plural, and vice versa.

- 2.2.3 A reference to a person includes a reference to an unincorporated association, incorporated association, company, partnership, trust and joint venture as well as the successors, representatives and permitted assigns of each.
- 2.2.4 A reference to a gender includes a reference to all genders.
- 2.2.5 A reference to a time, day or date is a reference to that time, day or date in Sydney, New South Wales.
- 2.2.6 Headings are for convenience only, and the wordings of headings do not affect the interpretation of this Nomination Criteria.
- 2.2.7 A reference to “\$” or “dollars” is a reference to Australian currency.

### **3 Objective and Guiding Principle of Selection**

- 3.1 Wrestling Australia's objective, in enacting this Nomination Criteria and then nominating eligible Athletes to Commonwealth Games Australia for selection in the 2022 Australian Commonwealth Games Team, is to only nominate and select Athletes who Wrestling Australia considers to have the best possible chance of producing podium performances and winning gold medals at the 2022 Commonwealth Games.
- 3.2 At the date that this Nomination Criteria comes into effect in accordance with **clause 1.4**, Commonwealth Games Australia has notified Wrestling Australia that Commonwealth Games Australia is allocated a maximum of six (6) quota places in the program for the Sport at the 2022 Commonwealth Games.
- 3.3 What this means that, subject to any change to the number of quota places allocated to the 2022 Australian Commonwealth Games Team for the Sport, Commonwealth Games Australia cannot select more than a maximum of six (6) eligible Athletes into the 2022 Australian Commonwealth Games Team, to compete in the Sport at the 2022 Commonwealth Games.
- 3.4 Wrestling Australia may only nominate eligible Athletes to Commonwealth Games Australia where the Commonwealth Games Federation has allocated quota places in the Program for the Sport to Commonwealth Games Australia.
- 3.5 Accordingly, Wrestling Australia cannot nominate at least one (1) eligible Athlete to Commonwealth Games Australia, for selection in each weight division in each of the men's and women's competitions at the 2022 Commonwealth Games, noting that the competition in the Sport at the 2022 Commonwealth Games will be in the Freestyle discipline, noting that the men's and women's competitions will each be comprised of six (6) distinct weight divisions.
- 3.6 For the avoidance of any doubt, Wrestling Australia is under no obligation to nominate the number of eligible Athletes equal to the number of quotas place that have been allocated to Commonwealth Games Australia in the program for the Sport at the 2022 Commonwealth Games, or indeed any eligible Athletes.

### **4 Nomination Date**

- 4.1 Nominations by Wrestling Australia, of eligible Athletes to Commonwealth Games Australia, **must** be received by Commonwealth Games Australia by the Nomination Date and no later.
- 4.2 Any nomination made by Wrestling Australia to Commonwealth Games Australia will be invalid for all purposes, unless the nomination is received by Commonwealth Games Australia by no later than the Nomination Date (or such later date that is notified by Commonwealth Games Australia, in its absolute discretion).

## **5 Eligibility**

- 5.1 All Athletes wishing to be considered for nomination by Wrestling Australia to Commonwealth Games Australia must satisfy, and at all times continue to satisfy the conditions of eligibility referred to in this Nomination Criteria.
- 5.2 For the purpose of this Nomination Criteria and any nomination decision or selection decision made in connection with this Nomination Criteria, an Athlete shall be determined as “eligible” if Wrestling Australia determines that it is satisfied, on reasonable grounds, that the Athlete:
- 5.2.1 Is a current and financial member of Wrestling Australia.
  - 5.2.2 Is a “member in good standing” (or equivalent) of Wrestling Australia.
  - 5.2.3 Does not have any unpaid debts owing to Wrestling Australia or any of its constituent bodies.
  - 5.2.4 Has agreed to be bound by Wrestling Australia’s rules and policies, including without limitation the Wrestling Australia Code of Behaviour.
  - 5.2.5 Has not committed any breach of any anti-doping policy that the Athlete is subject to the jurisdiction of (or, for the avoidance of doubt, the Commonwealth Games Australia Anti-Doping Rules), except where the Athlete has already completed serving the sanction(s) imposed in relation to any such breach of any such anti-doping policy.
  - 5.2.6 Has complied with all reporting, testing and other requirements stipulated by Sport Integrity Australia under its anti-doping and integrity initiatives.
  - 5.2.7 Has not, by their actions or omissions, brought themselves; Wrestling Australia; Commonwealth Games Australia, the 2022 Australian Commonwealth Games Team or the Sport into disrepute or censure.
  - 5.2.8 Is an Australian citizen.
  - 5.2.9 Is qualified and eligible to represent Australia in international competitions in the Sport, in accordance with the rules and policies established by United World Wrestling and the Commonwealth Games Federation, including without limitation the UWW Change of Nationality Rules.
  - 5.2.10 Has completed all of the Sport Integrity Australia online education modules and requirements, as specified in the Wrestling Australia Education Plan.
  - 5.2.11 Signed, and has since complied with the terms of the Team Agreement and any other documents and policies determined by Commonwealth Games Australia, Wrestling Australia, United World Wrestling or the Commonwealth Games Federation.
  - 5.2.12 Competed in the Pre-Nomination Competition.
  - 5.2.13 Attended, and participated in the Pre-Nomination Camps and Post-Nomination Camp.
  - 5.2.14 Has submitted to, has undergone, and has met the specified and required standards determined by Wrestling Australia for any pre-nomination physical or other testing to be carried out on Athletes between 9 February 2022 and the Nomination Date (both dates inclusive).

## **6 Nomination Panel's Discretion**

- 6.1 For reasons including those set out in **clause 3**, the Nomination Panel has absolute discretion in the nomination decisions made under this Nomination Criteria, having regard to the Nomination Factors.
- 6.2 In making nomination decisions the Nomination Panel may, in the exercise of its absolute discretion, apply a standard which calls for a value judgment and an overall assessment of the Nomination Factors. The Nomination Panel (and each member of the Nomination Panel) are expected to bring to account those matters within the Nomination Factors that they consider to be relevant to the determination, in order to achieve the objective referred to at **clause 3.1**.
- 6.3 When comparing Athletes' performances, and especially when comparing the performances of Athletes across different genders and across different weight classes within each gender, the primary function of the Nomination Panel's discretion is to determine the relative relevance of each of the Nomination Factors, and the relative weight attributable to each of them.
- 6.4 The Nomination Panel is required to exercise its absolute discretion:
- 6.4.1 Prudently;
  - 6.4.2 With sound judgment;
  - 6.4.3 Reasonably and justly;
  - 6.4.4 In good faith; and
  - 6.4.5 For a proper purpose.
- 6.5 A member of the Nomination Panel must recuse himself or herself from taking any part in the making of a nomination decision under this Nomination Criteria in any circumstance where that member is affected by bias, or where there would be a reasonable apprehension in the circumstances that the member is biased.

## **7 Pre-Nomination Competition**

- 7.1 The Nomination Panel will take into account all of the performances of all eligible Athletes at the Pre-Nomination Competition, as a primary method of assessing which eligible Athletes would (if nominated for selection by Commonwealth Games Australia) have the best possible chance of producing podium performances and winning gold medals at the 2022 Commonwealth Games.
- 7.2 It is therefore vital and a definite requirement that eligible Athletes participate in the Pre-Nomination Competition if the Athlete wishes to be considered by the Nomination Panel, for nomination to Commonwealth Games Australia for selection in the 2022 Australian Commonwealth Games Team.

## **8 Nomination Factors**

- 8.1 In determining the eligible Athletes who will be nominated to Commonwealth Games Australia for selection in the 2022 Australian Commonwealth Games Team, Wrestling Australia will nominate eligible Athletes who, in the opinion of the Nomination Panel in its absolute discretion:
- 8.1.1 Have the best possible chance of producing podium performances and winning gold medals at the 2022 Commonwealth Games.
  - 8.1.2 Have met the eligibility requirements set out in **clause 5**.

- 8.2 In making its determination required under **clause 8.1**, the Nomination Panel must take into account the following Nomination Factors:
- 8.2.1 Athletes' performances in the Pre-Nomination Competition, and the level and standard of competition in each Athlete's weight division at that Pre-Nomination Competition.
  - 8.2.2 Athletes' current national and international performances.
- 8.3 The Nomination Panel has an absolute discretion to determine in the case of each eligible Athlete, the relevant weightings applied to each criterion referred to in **clause 8.2**.
- 8.4 In any circumstances where the Nomination Panel considers that it is unable to make any or all nomination decisions based on a consideration of the Nomination Factors referred to in **clause 8.2**, the Nomination Panel may then also in its absolute discretion have regard to the following additional Nomination Factors:
- 8.4.1 Athletes' past national and international performances.
  - 8.4.2 Each Athlete's current level of skill and physical fitness.
  - 8.4.3 Any illness or injury suffered by an Athlete.
  - 8.4.4 An Athlete's demonstrated ability of achieving, and contributing to team balance and harmony in an elite sports team environment.
  - 8.4.5 An Athlete's demonstrated willingness to promote Wrestling Australia, Commonwealth Games Australia and the 2022 Australian Commonwealth Games Team.
  - 8.4.6 An Athlete's demonstrated compliance with the rules of national and international events and competitions in the Sport, in which the Athlete has participated.
  - 8.4.7 Input received from Athletes' coaches, where input from any coach must be limited by that coach to a written statement of no more than one (1) page in total length.
  - 8.4.8 The commitment of each Athlete to achieve the objective specified in **clause 3**.

## **9 Extenuating Circumstances**

- 9.1 In making its nomination decisions the Nomination Panel may, in its absolute discretion, have regard to Extenuating Circumstances.
- 9.2 It is the sole and non-delegable duty of an Athlete to notify Wrestling Australia in writing, about any factors, happenings or eventualities which the Athlete considers to constitute Extenuating Circumstances. Likewise, it is also the sole responsibility of the Athlete, to provide to Wrestling Australia any documents and evidence relied on by the Athlete, in support of the Athlete's contentions.
- 9.3 The Athlete must provide his or her notice required by **clause 9.2**, as well as all documents and evidence referred to in **clause 9.2**, to Wrestling Australia as soon as practicable after the factors, happenings and eventualities arise. That notice must be provided by the Athlete, in writing, and marked to the attention of "The Nomination Panel". Notice must be provided via email to [admin@wrestling.com.au](mailto:admin@wrestling.com.au), and also via registered post, at **PO Box 10, KINGSWAY, WESTERN AUSTRALIA 6065**
- 9.4 If the Athlete determines that he or she is unable to participate in the Pre-Nomination Competition by reason of Extenuating Circumstances, the Athlete must notify the Nomination Panel of his or her non-attendance, in writing, including all relevant reasons. Notice must be

provided by the Athlete, in writing, marked to the attention of "The Nomination Panel". Notice must be provided via email to [admin@wrestling.com.au](mailto:admin@wrestling.com.au).

9.5 This notice must be given by the Athlete as soon as practicable after the Athlete becomes aware that he or she will be unable to participate in the Pre-Nomination Competition because of Extenuating Circumstances, and in any event by no later than 24 hours after the commencement of the Pre-Nomination Competition.

9.6 Where relevant, the Nomination Panel may require an Athlete to undergo a medical examination or an examination by another health professional, in any circumstance where an Athlete claims that he or she has been impacted by Extenuating Circumstances.

## **10 Procedure for Nomination to Commonwealth Games Australia**

10.1 Wrestling Australia must provide written notice to each Athlete of their nomination or non-nomination (as the circumstances require), to Commonwealth Games Australia, no later than 72 hours before the Nomination Date.

10.2 That written notice shall be provided by Wrestling Australia to the last email address notified by the Athlete to Wrestling Australia as being the Athlete's email address for the purpose of receiving communications from Wrestling Australia.

## **11 Appeals Against Non-Nomination**

11.1 An Athlete who wishes to appeal against any decision of the Nomination Panel (or, for the avoidance of doubt, Wrestling Australia) to not nominate the Athlete to Commonwealth Games Australia for selection in the 2022 Australian Commonwealth Games Team may bring an appeal in accordance with this Nomination Criteria, and not otherwise.

11.2 An Athlete may appeal their non-nomination on one (1) or more of the following grounds:

11.2.1 That in making the nomination decision, the Nomination Panel did not follow the procedure specified in **clause 10.1**.

11.2.2 That this Nomination Criteria was not properly applied by the Nomination Panel.

11.2.3 That the appellant Athlete was not afforded a reasonable opportunity by Wrestling Australia to satisfy this Nomination Criteria.

11.2.4 That the Nomination Panel was affected by actual bias in making its decision in relation to the appellant Athlete.

11.2.5 That there was no material on which the Nomination Panel's decision could reasonably be based.

11.3 Commonwealth Games Australia has agreed in principle to adopt the jurisdiction of the National Sports Tribunal in Commonwealth Games Australia's policies and procedures for disputes and appeals arising from the nomination of athletes (including Athletes, as defined in this document) to the 2022 Australian Commonwealth Games Team.

11.4 Commonwealth Games Australia is working with the National Sports Tribunal to draft mandatory appeal provisions for the **Birmingham 2022 Nominations & Appeals By-law**, which will apply to all nomination appeals referred to in **clause 11.3**, and which will set out relevant process and procedures which must be followed. The National Sports Tribunal is assisting Commonwealth Games Australia in developing the Birmingham 2022 Nominations & Appeals By-law, which will be forwarded to all Birmingham 2022 sports once finalised.



**12 Governing Law**

12.1 This Nomination Criteria is governed by the laws of the State of New South Wales.