

NEW ERA ADR
UNITED STATES OLYMPIC & PARALYMPIC MOVEMENT ARBITRATION RULES

[REDACTED]	§	
	§	
<i>Claimant</i>	§	
	§	
v.	§	Case No. 25071721
	§	
U.S. SKI & SNOWBOARD	§	
	§	
<i>Respondent</i>	§	

ARBITRATION AWARD

I, the undersigned arbitrator (“**Arbitrator**”), having been designated in accordance with the Ted Stevens Olympic and Amateur Sports Act (“**Act**”), 36 U.S.C. § 220505 *et seq.*, and Section 9 of the United States Olympic and Paralympic Committee (“**USOPC**”) Bylaws, having been duly sworn, and having duly heard the proofs and allegations, and considering any and all evidence provided by [REDACTED] (“[REDACTED]” or “**Claimant**”) and U.S. Ski & Snowboard (“**USSS**” or “**Respondent**”) (individually “**Party**” or collectively the “**Parties**”) hereby finds, concludes, determines, and awards as follows:

I. Procedural History

On July 21, 2025, [REDACTED] submitted his *Complaint Form - Section 9 of USOPC Bylaws*.

On July 22, 2025, the Arbitrator was appointed to serve as the arbitrator in this proceeding.

On July 24, 2025, the Parties, through counsel, confirmed an agreement on the briefing schedule and exchange of information and agreed to set the evidentiary hearing to be held on July 31, 2025 beginning at 11:30 a.m. CT.

The final hearing was held via Zoom conference on July 31, 2025 commencing at 11:30 a.m. CT and concluding at 9:10 p.m. CT. During the hearing, [REDACTED] appeared along with his counsel, Howard Jacobs, Katy Freeman, and Leah Bernhard of the Law Offices of Howard L. Jacobs, and USSS appeared through its representatives, Alison Pitt, Kristina Frkovic, and Alberto Diaz, and its counsel, Stephen A. Hess of the Law Office of Stephen A. Hess. In addition to the Parties and counsel, the following individuals attended the videoconference hearing as observers: [REDACTED] ([REDACTED]’s father), [REDACTED] ([REDACTED] mother) Kacie Wallace (USOPC Office of the Ombuds, Ombuds), Matt Kaiser (USOPC, Counsel for Dispute Resolution), and Lisabeth Rubin (USOPC Intern). At the conclusion of the hearing, the Parties confirmed they were provided a full and fair opportunity to submit and argue necessary facts, allegations, legal arguments,

evidence, and present all witnesses they deemed appropriate. Subsequently, no Party or counsel filed an objection or indicated additional time was necessary to fully and fairly present this matter for consideration.

On August 1, 2025, the Arbitrator issued the following *Operative Award*:

Thank you to all of the parties, counsel, and witnesses for your participation in the arbitration of this matter on July 31, 2025. Counsel for the parties was well prepared and thoroughly addressed the facts and circumstances with little time to prepare for the expedited hearing. I have considered all of the facts, allegations, arguments, testimony, and evidence submitted by the parties in the present proceeding and have reviewed the case *de novo*. After conducting such review and providing [REDACTED] and USSSA a full and fair opportunity to be heard, I find and conclude that USSSA restricted [REDACTED] from competition in contravention of the SafeSport Code for the U.S. Olympic and Paralympic Movement, effective April 1, 2023 (“2023 Code”). The incident in question occurred on May 26, 2024, thus the 2023 Code provides the applicable standard. The U.S. Center for SafeSport (“SafeSport”) has “exclusive jurisdiction” to “investigate and resolve allegations” of “Sexual Misconduct”. In this circumstance, SafeSport exercised jurisdiction over the allegations set forth against [REDACTED] and that matter remains pending. When SafeSport exercises jurisdiction, USSSA “cannot issue ... a suspension or other restriction that may deny or threaten to deny [REDACTED] opportunity to participate in sport.” The USSSA subcommittee reviewed materials discovered and obtained through open records requests to conclude that [REDACTED] membership in USSSA should be terminated. The 2023 Code prohibits USSSA from conducting investigation. USSSA, however, is permitted to implement any necessary safety plans or temporary measures as they previously did, which were and remain acceptable under the 2023 Code. Being that the termination of [REDACTED] membership denies his opportunity to compete and is based exclusively on matters that are currently pending before SafeSport, USSSA violated Section 9 of the USOPC Bylaws and the Ted Stevens Olympic and Amateur Sports Act. It is important to note, this is not a SafeSport arbitration nor an appeal of a USSSA Code of Conduct violation. This operative decision does not forbid USSSA from determining membership or employment decisions in other contexts and pertains only to the 2023 Code that was applicable to this matter. Accordingly, [REDACTED] shall be permitted to compete in events for which he meets the qualifying standards and has complied with other obligations for membership in USSSA including SafeSport training. This operative decision does not in any way prohibit SafeSport from implementing temporary measures or other actions under SafeSport’s purview.

I wish the parties well in future competitions and endeavors. A reasoned decision will follow in due course.

II. Evidence Submitted by the Parties

The Parties submitted the exhibits and called witnesses as set forth below. All such exhibits were admitted into evidence without objection.

A. [REDACTED]

[REDACTED] submitted exhibits labeled C-1 - C-25 and called the following witnesses at the final hearing who were sworn in and provided testimony under oath:

1. [REDACTED]
2. Chad Fleischer

B. USSS

USSS submitted exhibits labeled R-1 - R-89 and called the following witnesses at the final hearing who were sworn in and provided testimony under oath:

1. Alison Pitt
2. Raymond Mey
3. Karen Fojtik

III. Jurisdiction

An arbitrator has jurisdiction over disputes if the dispute is protected under the Act, 36 U.S.C. § 220501, *et seq.*, and the controversy involves the opportunity to participate in national and international competition representing the United States. Section 220522(a)(4) of the Act states:

An amateur sports organization, a high-performance management organization, or a paralympic sports organization is eligible to be certified, or to continue to be certified, as a national governing body only if it . . . agrees to submit to binding arbitration in any controversy involving . . . the opportunity of any amateur athlete . . . to participate in amateur athletic competition, upon demand of . . . any aggrieved amateur athlete . . . , which arbitration under this paragraph shall be conducted in accordance with the standard commercial arbitration rules of an established major national provider of arbitration and mediation services based in the United States and designated by the corporation with the concurrence of the Athletes' Advisory Council and the National Governing Bodies' Council, as modified and provided for in the corporation's constitution and bylaws, except that if the Athletes' Advisory Council and National Governing Bodies' Council do not concur on any modifications to such Rules, and if the corporation's executive committee is not able to facilitate such concurrence, the standard commercial rules of arbitration of such designated provider shall apply unless at least two-thirds of the corporation's board of directors approves modifications to such Rules. . . .

Additionally, Section § 220522(a)(8) of the Act states that a national governing body (“**NGB**”) must:

[P]rovide[] an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, sex, age, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate. . . .

Section 9.1 of the USOPC Bylaws provides as follows:

No member of the corporation may deny or threaten to deny any Amateur Athlete the opportunity to participate in an upcoming Protected Competition nor may any member, subsequent to such competition, censure, or otherwise penalize, (i) any such athlete who participates in such competition, or (ii) any organization that the athlete represents. The corporation will, by all reasonable means, protect the opportunity of an Amateur Athlete to participate if selected (or to attempt to be selected to participate) in a Protected Competition. In determining reasonable means to protect an athlete's opportunity to participate, the corporation will consider its responsibilities to the individual athlete(s) involved or affected, to its mission, and to its membership.

Any reference to athlete in this Section 9 will also equally apply to any coach, trainer, manager, administrator or other official.

Under USOPC Bylaws Section 1.3(x), "Protected Competition" means "i. a Delegation Event¹ [and] ii. a Qualifying Competition."²

USOPC Bylaws Section 9.6 provides that, "[i]f the complaint [under Section 9.1] is not settled to the athlete's satisfaction the athlete may file a claim with the arbitral organization designated by the corporation Board against the respondent for final and binding arbitration." Under both Sections 9.6 and 9.8 of the USOPC Bylaws, the arbitration proceeding may be expedited.

¹ A "Delegation Event" is defined in Section 1.3(l) of the USOPC Bylaws as "individually or collectively, as applicable, the Olympic Games, the Olympic Winter Games, the Paralympic Games, the Paralympic Winter Games, the Pan American Games, and the Parapan American Games[.]"

² A "Qualifying Competition" is defined in Section 1.3(z) of the USOPC Bylaws as:

- i. "NGB Qualifying Competition": Any competition or activity organized or approved by the NGB (e.g., team selection camp, tryout, national championship, Trials event) where the athlete's performance or results are considered in the published selection criteria to represent the United States in a Delegation Event.
- ii. "International Qualifying Competition": Any international sport competition where (i) athletes represent the United States against athletes representing other nations, (ii) the NGB officially designates entrants, as required by the competition organizers, and (iii) athlete results or performance are included in the published criteria (i.e., International Federation qualification system or NGB selection criteria) to qualify, or be selected, to represent the United States in a Delegation Event[.]

IV. Discussion and Analysis

The undersigned has considered all the facts, allegations, arguments, testimony, and evidence submitted by the Parties in the present proceeding. In drafting and explaining the *Arbitration Award*, the arbitrator refers in this *Arbitration Award* only to the submissions and evidence considered necessary to explain the reasoning in this decision. After considering all evidence submitted, based on the preponderance of the evidence, the undersigned makes the following findings:

A. *Standard of Review and Burden of Proof*

In the context of selection procedures and decisions, the applicable standard of review in Section 9 cases is *de novo*, but this is not a selection dispute. *Crowell v. US Equestrian Federation*, AAA Case No. 77 190 E 00193 09 JENF (May 3, 2009); *Nadmichettu v. US Table Tennis Ass’n*, AAA Case No. 77 190 169 10 JENF (Apr. 23, 2010); *Craig v. USA Taekwondo*, AAA Case No. 77 190E 00144 11 JENF (Aug. 21, 2011); *Fogarty v. USA Badminton*, AAA Case No. 01-19-0000-7585 (June 21, 2019). In a matter with similar circumstances and disputes, the Arbitrator explained the standard as follows:

It is undisputed that the Arbitrator has *de novo* jurisdiction to resolve the parties’ dispute pursuant to Section 9 of the USOC Bylaws because USAT’s indefinite interim suspensions are denying and the opportunity to participate or qualify to participate in future “protected competitions” under Section 1.3 (w) of the USOC Bylaws as an athlete or coach, respectively, such as the February 28-March 3, 2019 U.S. Open Taekwondo Championships, 2019 Pan American Games, 2019 World Taekwondo Championships, and 2020 Olympic Games.

Claimants v. USA Taekwondo, Inc., AAA 01-19-000-5335 (May 19, 2019). Typically, in Section 9 proceedings, the burden rests with the claimant to prove his or her claim by a preponderance of the evidence. *Craig v. USA Taekwondo*, AAA Case No. 77 190E 00144 11 JENF (Aug. 21, 2011). However, in the context of appropriate measures taken against members, the burden rests with the NGB to establish by a preponderance of the evidence that the measures are appropriate. *Claimants v. USA Taekwondo, Inc.*, AAA 01-19-000-5335 (May 19, 2019).

B. *Factual Background*

The USOPC recognizes USSS as the NGB for ten (10) winter Olympic and Paralympic sports including alpine, cross country, freestyle, moguls, aerials, snowboard, para alpine, para snowboard, ski jumping, and Nordic combined. USSS’s mission is to lead, encourage, and support athletes in “achieving excellence by empowering national teams, clubs, coaches, parents, officials, volunteers, and fans.” *Ex. R-53* at art. III.B. In furtherance of USSS’s mission, it considers the responsibility of athlete safety to be of the utmost importance and “[m]aintain[s] and enforce[s] an athlete safety program consistent with the policies and standards directed by FIS,³ the USOPC, and the Act.” *Ex. R-53* at art. III, Sect. C.10.

³ FIS is the International Ski and Snowboard Federation, which is the international governing body for skiing and snowboarding.

Ex. R-60. [REDACTED] was informed of the SafeSport investigation on July 14, 2025 and was not issued interim measures other than a standard No Contact Order.

[REDACTED]

Thereafter, USSS reviewed [REDACTED] membership under the terms of the *USSS Membership Admission and Termination Policy* (“Policy”). Ex. R-78. On or about June 11, 2025, the USSS Safety and Security of Athletes Subcommittee (“Subcommittee”) concluded that [REDACTED] membership in USSS should be denied and recommended the same to the USSS Board. Ex. R-78. [REDACTED] was not suspended or denied membership under the terms of the USSS Code of Conduct.

C. *Analysis*

This dispute, and this *Arbitration Award*, does not address the allegations set forth in the matter presented to SafeSport. This is exclusively based on the Section 9 complaint presented. Accordingly, this *Arbitration Award* does not resolve the matters being investigated by SafeSport and any possible or subsequent arbitration.

The circumstances at issue occurred on May 26, 2024; therefore, the *SafeSport Code for the U.S. Olympic and Paralympic Movement*, effective April 1, 2023 (“2023 SafeSport Code”), is applicable to this arbitration. Ex. R-52. It is noted that the 2023 SafeSport Code was amended on July 1, 2024, which is after the circumstances and allegations that are addressed herein.

As noted in USSS’s pre-hearing brief, SafeSport was created “[f]ollowing the discovery of intolerable sexual abuse within the Olympic movement[.]” *USSS Brief* at p. 3. On February 14, 2018, Congress passed the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017, which appoints SafeSport as the “independent national safe sport organization” relative to sexual assault and abuse in the Olympic movement. 36 U.S.C. § 220541(a)(1)(A).

SafeSport “has the exclusive authority to investigate and resolve allegations involving sexual misconduct/abuse within the Olympic and Paralympic Movement.” Ex. R-70. The 2023 SafeSport Code states that the “USOPC, NGBs, and Local Affiliated Organizations (LAOs) must comply, in all respects, with these policies and procedures and shall be deemed to have incorporated the provisions into their relevant policies as if they had set them out in full therein.” Ex. R-52 at art. II. Similarly, Section 8.4.1(c)(ii) of the USOPC Bylaws requires NGBs, including USSS, to “comply with the policies and requirements of the USCSS[.]” Ex. R-69 at Sect. 8.4.1(c)(ii).

The 2023 SafeSport Code address SafeSport’s exclusive jurisdiction in Article IV(A) and states, in pertinent part, as follows:

A. Exclusive Jurisdiction

The Center has the *exclusive jurisdiction to investigate and resolve allegations* that a Participant engaged in one or more of the following:

1. *Sexual Misconduct*, including without limitation child sexual abuse and any misconduct that is reasonably related to an underlying allegation of Sexual Misconduct[.]

Ex. R-52 at art. IV(A)(1)(emphases added). The 2023 Safe Sport defines “Sexual Misconduct” to include “Nonconsensual Sexual Contact” as alleged by [REDACTED] as and against [REDACTED] *Ex. R-52* at art. IX(C)(2). Additionally, the 2023 SafeSport Code addresses the jurisdiction of NGBs in Article V and states, in pertinent part, as follows:

- A. *Before the Center expressly exercises jurisdiction over particular allegations* regarding a particular Participant, the relevant organization (the USOPC, *NGB*, or LAO) *has the authority to implement necessary and appropriate measures, up to and including a suspension*, to address any allegations of misconduct.
- B. *When the relevant organization has reason to believe that the allegations presented fall within the Center’s exclusive jurisdiction*, the organization—while able to impose measures—*may not investigate or resolve those allegations*.

- D. The Center will issue a Notice of Exercise of Jurisdiction to the USOPC, NGB, or LAO when the Center determines it has jurisdiction over an allegation of Prohibited Conduct. *When the Center expressly exercises jurisdiction over particular allegations regarding a particular Participant, the relevant organization(s) cannot issue—in response to those allegations—a suspension or other restriction that may deny or threaten to deny a Respondent’s opportunity to participate in sport. The relevant organization may implement any necessary safety plan(s) or temporary measure(s). The NGB shall inform the Center of any safety plan(s) or temporary measures(s) it or its LAO imposes within 72 hours of imposition.*

Ex. R-52 at art. V(A), (B), (D)(emphases added). As noted above, on July 26, 2024, SafeSport “accept[ed] jurisdiction” over the allegations at issue. *Ex. R-60*.

In July 2024, after the allegations in question, SafeSport amended the *SafeSport Code for the U.S. Olympic and Paralympic Movement* revising the 2023 SafeSport Code effective July 1, 2024 (“2024 SafeSport Code”). *Ex. R-59*. The 2024 SafeSport Code makes multiple revisions including language related to “actions” taken relative to “membership decisions” by an NGB when SafeSport exercises “exclusive jurisdiction”. *Ex. R-58; Ex. R-72*. USSS argued that the

“revisions” to the 2023 SafeSport Code are to explain what has always been the authority of an NGB; however, the *Noteworthy Revisions 2024 SafeSport Code for the U.S. Olympic and Paralympic Movement* expressly states these changes are “revisions” and further notes that there is “[a]dded language” to address the actions that are permitted by the NGBs. *Ex. R-70*. Being that the 2023 SafeSport Code is the applicable code relative to the allegations, analysis of the 2024 SafeSport Code is not necessary.

Here, the plain language of the 2023 SafeSport Code expressly states the NGB cannot “susp[en]d” or “restrict[]” an athlete from the opportunity to participate in sport, but can “implement necessary safety plan(s) or temporary measures(s)” *Ex. R-52* at art. V(D). Ms. Pitts, during her testimony, confirmed that [REDACTED] has been “restricted” or, at a minimum, has been “arguably restricted” from competing and agreed that removal of [REDACTED] membership is a sanction.

USSS was adamant that SafeSport regulations prohibited USSS from investigating and argued that it did not investigate. *Ex. R-52* at art. V(B). In the *Confidential: Risk Assessment Form*, USSS explains the actions taken, in pertinent part, as follows:

On June 3rd, 2025, U.S. Ski & Snowboard (“USSS”) submitted a public records request to [REDACTED] and received the District Attorney’s Declination of Charges letter dated May 2nd, 2025 (see Exhibit A), and the redacted police investigation report on June 4th, 2025 (see Exhibit B). The victim also provided a statement to our reporting line, which we received from the police, on June 3rd, 2025 (see redacted Exhibit C).

Ex. R-72. Both Mr. Mey and Ms. Fojtik, members of the Subcommittee, testified that they reviewed this information and relied upon it to deny membership to [REDACTED] under the terms of the Policy.⁴ By seeking and obtaining records and information, USSS clearly investigated. The investigation conducted and the information reviewed is also being reviewed by SafeSport. The entire basis of [REDACTED] removal from the USSS membership roster and associated restrictions on competition are expressly based on the matters that are under review by SafeSport. SafeSport has “exclusive jurisdiction” to “investigate” and “resolve” these matters.

In *Claimants v. USA Taekwondo, Inc.*, the Arbitrator discussed and addressed an analogous circumstance and concluded, in pertinent part, as follows:

To comply with the ASA and Section 9 of the USOC Bylaws, USAT’s exercise of this authority to impose an interim suspension on one of its members, which would preclude him or her from the opportunity to participate in a “protected competition” under Section 1.3 (w) of the USOC Bylaws, must fully comply with the U.S. Center for SafeSport’s SafeSport Practices and Procedures (specifically, Part V) and its Supplementary Rules for U.S. Olympic and Paralympic Movement Arbitrations, including, but not limited to, R-40.

⁴ During her testimony, Ms. Pitts acknowledged that the Policy was reduced to writing after the 2024 SafeSport Code revision and was based, at least in part, on changes in the 2024 SafeSport Code.

USAT's December 17, 2018 interim suspension of [REDACTED] is vacated because based on the record evidence in this arbitration proceeding it is an inappropriate and disproportionate interim measure that denies him the opportunity to participate in future "protected competitions" (e.g., February 28-March 3, 2019 U.S. Open Taekwondo Championships) as an athlete without just cause in violation of the ASA and Section 9 of the United States Olympic Committee ("USOC") Bylaws. This determination does not preclude USAT from imposing less restrictive conditions and requirements upon him to protect the safety of its current member athletes and other categories of persons listed in Section V of the SafeSport Practices and Procedures, provided that any such prophylactic measures do not effectively deny him the opportunity to participate in any future "protected competition" as an athlete.

USAT's January 25, 2019 interim suspension of [REDACTED] is vacated because based on the record evidence in this arbitration proceeding it is an inappropriate and disproportionate interim measure that denies him the opportunity to participate in future "protected competitions" as a coach (e.g., February 28-March 3, 2019 U.S. Open Taekwondo Championships) without just cause in violation of the ASA and Section 9 of the USOC Bylaws. This determination does not preclude USAT from imposing less restrictive conditions and requirements upon him to protect the safety of its current member athletes and other categories of persons listed in Section V of the SafeSport Practices and Procedures, provided that any such prophylactic measures do not effectively deny him the opportunity to participate in any future "protected competition" as a coach.

USAT is ordered to immediately notify the World Taekwondo Federation that the Arbitrator has vacated its December 17, 2018 indefinite suspension of [REDACTED] and its January 25, 2019 indefinite suspension of [REDACTED].

Claimants v. USA Taekwondo, Inc., AAA 01-19-000-5335 (May 19, 2019). The present matter, like *Claimants v. USA Taekwondo, Inc.*, presents serious allegations that are concerning and potentially detrimental to sport. These allegations, however, have not been adjudicated through SafeSport. The 2023 SafeSport Code makes it clear that NGBs are not permitted to investigate matters under SafeSport's "exclusive jurisdiction" and are not permitted to "restrict[]" or "susp[en]d[]" an athlete from competition for a matter under the "exclusive jurisdiction" of SafeSport. That is expressly what USSS did here. When applying the 2023 SafeSport Code to this Section 9 complaint, these "actions" step beyond the authority granted to USSS. Accordingly, USSS's actions to restrict [REDACTED] from competing while the matter is being investigated by SafeSport under its "exclusive jurisdiction" violates Section 9 of the USOPC Bylaws and the Act. This *Arbitration Award* does not restrain or prohibit USSS from making decisions relative to membership as long as the decision is not based on what is expressly within the "exclusive jurisdiction" of SafeSport and under SafeSport's review and investigation. [REDACTED] must meet USSS's other requirements for membership.

As addressed above, USSS previously issued a safety plan relative to [REDACTED] and the associated allegations. The 2023 SafeSport Code expressly grants USSS with the authority to implement

“necessary safety plan(s) or temporary measure(s)”. The Athlete Safety Plan issued to [REDACTED] on June 26, 2024 is reasonable and tailored to address concerns relative to the allegations at issue. The Parties agreed that no additional conduct or actions have been reported in violation of the Athlete Safety Plan. USSS has authority to implement a new safety plan, or re-instate the Athlete Safety Plan, as long as it does not constitute “a suspension or other restriction” that denies or threatens to deny [REDACTED] participation in sport.

[REDACTED] shall be permitted to compete in events for which he meets the qualifying standards and has complied with other obligations for membership in USSS including SafeSport training. This *Arbitration Award* does not in any way prohibit SafeSport from implementing temporary measures or other actions under SafeSport’s purview.

V. Decision

Based on the foregoing findings and analysis, the undersigned decides and awards as follows:

- The Arbitrator finds and concludes that [REDACTED] shall be permitted to compete in events for which he meets the qualifying standards and granted USSS membership, subject to adjudication under the SafeSport process, as long as he meets all other requirements of membership;
- The Arbitrator finds and concludes that USSS may implement “necessary safety plan(s) or temporary measure(s)” as long as such restrictions do not constitute “a suspension or other restriction” that denies or threatens to deny [REDACTED] participation in sport;
- The Parties shall bear the costs and fees of this arbitration as incurred; and
- This award is in full settlement of all claims submitted in this arbitration. All claims not expressly granted herein are hereby denied.



Christian Dennie, FCI Arb
Arbitrator

Date: August 18, 2025