



# Dispute Resolution Procedures

effective May 31, 2024

# US Olympic and Paralympic Committee Dispute Resolution Procedures

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## US Olympic and Paralympic Committee Dispute Resolution Procedures



**Procedures Name:** USOPC Dispute Resolution Procedures

**Governing Policy:** USOPC Dispute Resolution Policy

**Publication Date:** 5/31/2024

**Procedure Owner:** USOPC Legal

**Applies to:** Athletes and other participants under the USOPC's jurisdiction as specified in Section 2.3 of these Procedures.

**Purpose:** The USOPC is committed to providing effective and efficient dispute resolution services for NGBs, athletes, and other participants for complaints that fall under the USOPC's purview. These Procedures apply to the complaint and hearing processes that USOPC's Dispute Resolution Unit ("DRU") manages and administers for certain types of complaints or cases as described in the below Procedures Statement and in more detail in Section 2.1. DRU also supports other USOPC hearing processes that these Procedures do not apply to, including those **exclusions** listed in Section 2.2.

**Procedures Statement:** These Procedures set forth how to file a complaint and what is required before and during a hearing for certain types of cases that arise from:

- Trials and Delegation Events
- NOC/NPC Events
- Olympic & Paralympic Training Center Access
- Athlete Safety
- Internally Managed Sports ("IMS")<sup>1</sup>
- Background Checks

These Procedures also set forth how DRU administers complaints, reviews, and hearings.

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<sup>1</sup> The USOPC is not a certified National Governing Body ("NGB") for IMS but will substantially comply with the NGB requirements in the Ted Stevens Olympic and Amateur Sports Act ("the Act") and the USOPC Bylaws as it relates to IMS complaints.

## SECTION 1 DEFINITIONS

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- a. "Act" is the Ted Stevens Olympic and Amateur Sports Act, as amended.
- b. "Complainant" means the individual who files a complaint; or the USOPC when bringing a disciplinary action against an individual who is alleged to have experienced conduct that constitutes Prohibited Conduct in Athlete Safety matters.
- c. "Complaint" means a formal, written submission that raises a concern or violation submitted pursuant to these Procedures and is made following the filing requirements described in detail in Section 4. A Complaint will be reviewed by DRU, and if properly filed, a hearing panel will be appointed to hear the matter.
- d. "Delegation Event" and/or "Games" means, 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.
- e. "De novo" means deciding the issue without reference to any previous legal conclusion, assumption, or determination.
- f. "DRU" means the USOPC Dispute Resolution Unit within USOPC Legal.
- g. "Emergency Case" means a case that arises during a Delegation/NOC/NPC Event where time is of the essence in which a hearing needs to be held and a determination made the same day due to ongoing competition at the Event.
- h. "Ex-Parte" means communication with a Hearing Panel member about a case without notice to, and outside the presence of, the other parties or the other party's attorney/advisor/representative.
- i. "Expedited Case" means a case that arises in which a hearing needs to be held within 48 hours due to an upcoming competition or entry deadline.
- j. "Hearing Panel" means the specific hearing panel designated to hear a type of matter as described in Section 4.6 (B).
- k. "IMS" means a USOPC internally managed sport where there is no recognized or certified National Governing Body for that sport or discipline.
- l. "Jurisdiction" means the USOPC's official authority to manage cases and make decisions.
- m. "NOC/NPC Event" means a competition where athletes must be entered by the National Olympic Committee (NOC) or the National Paralympic Committee (NPC) and to which the USOPC officially sends an individual or group of individuals on behalf of the USOPC and/or the United States.
- n. "NGB" means a National Governing Body recognized and certified by the USOPC as authorized in the Act and set out in Section 8 of the USOPC Bylaws.
- o. "Notice Letter" means a decision letter that is provided to a participant when a staff investigation or initial enforcement review is completed.
- p. "OPTC" means an Olympic and Paralympic Training Center.
- q. "Parties" means Complainant(s) and Respondent(s) in a case.
- r. "Preponderance of the Evidence" means the standard of proof that a Complainant must meet by presenting evidence to show that Complainant's argument is more likely right than wrong. In other words, considering the evidence, Complainant's claims are more likely true than not.
- s. "Procedures" means these USOPC Dispute Resolution Hearing Procedures.
- t. "Red Light" relates to a background check screening and means that information was needed to complete the screening and/or criteria-related convictions or pending convictions were found and verified.

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- u. "Report" means an informal notification of alleged misconduct or Rule violation.
- v. "Reporting Individual" means an individual who is alleged to have experienced conduct that constitutes Prohibited Conduct in Athlete Safety matters and is defined as a Claimant in the Athlete Safety Policy.
- w. "Respondent" means the individual/entity that a complaint or violation is alleged against.
- x. "Rules" means rules, policies, procedures, and/or regulations of the USOPC or respective IMS.
- y. "Standard Case" means a case in which there is no competition or entry deadline that would cause the need for an immediate decision within a 48-hour timeframe.
- z. "Temporary Measures" means a protective action that is immediately implemented in USOPC Athlete Safety matters.
- aa. "USOPC" means the United States Olympic & Paralympic Committee.

## SECTION 2 OVERVIEW & SCOPE

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### SECTION 2.1 APPLICABILITY & SCOPE

These Procedures apply to the following types of cases generally:

- A. Disciplinary Actions Brought by the USOPC or IMS – Actions brought by the USOPC or IMS to enforce their Rules against a participant for an alleged violation. A participant is required to comply with these Rules as a condition of participation in a USOPC or IMS event or activity as defined in Section 2.3 of these Procedures. Examples of these Rules include, but are not limited to:
  - i. Trials Rules (Demonstrations and Commercial)
  - ii. Games Rules, including Demonstrations, Delegation Terms, and any rules incorporated in the Delegation Terms
  - iii. OPTC Handbook, which includes the OPTC Code of Conduct
  - iv. Athlete Safety Policy
  - v. IMS Code of Conduct and any sport-specific team rules
  - vi. Any other applicable USOPC rules relating to behavior
- B. IMS Administrative Complaints – Complaints brought by an IMS athlete or IMS participant that is subject to the respective IMS Code of Conduct against an IMS for an alleged violation of any Rule, program, or service.
- C. IMS Code of Conduct Complaints – When the USOPC declines to pursue a report of an alleged violation by an IMS, the individual who reported the alleged violation can choose to subsequently file a Complaint directly against the individual who allegedly violated the IMS Code of Conduct. The reporting individual will need to bring the entire case on their own and can file the Complaint only if the reporting individual is under the USOPC's purview.
- D. IMS Opportunity to Participate Complaints – Complaints brought by an athlete, coach, trainer, manager, administrator, or official against an IMS for an alleged denial or threat of denial, of the Opportunity to Participate in competition or activity authorized or organized by the sport. If the competition involves a Protected Competition as defined in the USOPC Bylaws, an individual can choose to follow these Procedures for filing a Complaint or proceed directly to filing a complaint under Section 9 of the USOPC Bylaws. If proceeding directly to a Section 9 complaint, there is no requirement to first file an IMS complaint through these Procedures.
- E. Background Check Reviews – The USOPC's review of a "Red Light" finding on a background check or self-disclosure of a criminal charge.



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## SECTION 2.2 EXCLUSIONS

The following types of issues are not subject to these Procedures, and therefore, will not be handled through these Procedures:

- A. Anti-Doping Violations – Matters or decisions concerning an anti-doping violation being pursued by or adjudicated by the United States Anti-Doping Agency or any other signatory of the World Anti-Doping Agency.
- B. SafeSport Violations – Matters or decisions concerning a SafeSport violation pursued or adjudicated by the U.S. Center for Safe Sport (the “Center”) or adjudicated by an NGB.
- C. Field of Play Decisions – Final decisions of a referee during a competition regarding a field of play decision (a matter set forth in the rules of the competition to be within the discretion of the referee) unless the decision is: (i) outside the authority of the referee to make, or (ii) the product of fraud, corruption, partiality or other misconduct of the referee. For purposes of this Section, the term “referee” shall include any individual with discretion to make field of play decisions.
- D. Start Rights – Disputes concerning start rights at the Games or made by an IMS during an IMS competition, unless the decision is the product of fraud, corruption, partiality, or other misconduct of the person making the decision;
- E. NGB Selection Procedures – Matters concerning an athlete’s selection, removal, or replacement by an NGB (such matters may be resolved pursuant to an NGB’s Complaint/Grievance Procedures or Section 9 of the USOPC Bylaws for Protected Competitions);
- F. Paralympic Classification – Matters concerning Paralympic sport classification, such as disputes, protests, and appeals. These types of matters will be handled in accordance with the classification rules of the respective sport International Federation (IF) and/or the International Paralympic Committee (IPC) Athlete Classification Code as applicable.
- G. Complaints under the USOPC Bylaws – Complaints filed pursuant to the USOPC Bylaws under Sections 8, 9, 10, and 11. These types of complaints will be handled in accordance with the Dispute Resolution Policy found [here](#);
- H. Competition Results – Matters concerning an individual’s finish result or medal award;
- I. Medical Determinations – For a medical issue of any kind, medical determinations for injury or illness that are made by a physician or other provider as approved by the USOPC/IMS, or through a verified test result;
- J. Participation Agreements – Matters concerning a participation agreement (which is an agreement with the USOPC or NGB setting out requirements of athletes as conditions to participation in membership, events, teams, or programs, as applicable), unless there is no rational basis for a requirement within the agreement.
- K. Warnings, Probation, or Temporary Measures – Disciplinary matters that result in either (i) issuance of a warning or probation sanction after review by a USOPC staff member or panel, and (ii) in USOPC Athlete Safety matters, when a temporary measure is put in place that does not result in loss of participation.

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- L. Employment Concerns – Matters concerning the conduct, disciplinary action, hiring, or firing of any USOPC employee, contractor,<sup>2</sup> or volunteer of the USOPC;
- M. Flag Bearer Elections – Matters concerning Delegation Event Flag Bearer Elections are handled by the Team USA Athletes’ Commission and subject to the Team USA Athletes’ Commission Delegation Event Flag Bearer Election Policy found [here](#).
- N. USOPC Non-Compliance – Issues, reports, or complaints filed against the USOPC for non-compliance with the Act and/or the USOPC Bylaws. These types of matters will be handled by the USOPC Compliance division. However, if the Compliance division is the subject of a complaint, then it will be referred to the Ethics and Compliance Committee of the USOPC Board. These matters can be filed through the Integrity Portal [here](#).

### SECTION 2.3. JURISDICTION

The USOPC is responsible for resolving certain types of disputes under the Act and the USOPC Bylaws. Individuals listed below by type of matter are subject to these Procedures.

TYPE OF MATTER	INDIVIDUALS SUBJECT TO THESE PROCEDURES	FILING FEE
Trials Events	Any participants, including athletes, defined in the Trials Participant Rules for Commercial Markings and Demonstrations, competing in or working the event, or a person with access to athletes or restricted athlete areas	None
Delegation Events	Delegation members who have signed the USOPC Delegation Terms	None
NOC/NPC Events	Any individual, including athletes, competing in or working the event, or a person with access to athletes or restricted athlete areas	None
Athlete Safety	Participants, as defined in the Athlete Safety Policy	None
IMS – Administrative and Code of Conduct	Athletes who have signed any IMS National or Non-National Team Athlete Agreement and/or Code of Conduct, and all individuals who take part in an officially designated IMS event or activity in which they have agreed to, acknowledged, or have notice that they are subject to the Code of Conduct.	\$250.00
IMS – Opportunity to Participate	Any individuals, including athletes, who participate in an officially designated IMS event or activity	\$250.00
OPTC Access	Any individual, including athletes, who accesses an Olympic & Paralympic Training Center or other property owned or operated by the USOPC	None
Background Check	Individuals as specified in the Background Check Policy	None

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<sup>2</sup> Sports Medicine and IMS contractors (such as physical therapists, massage therapists, chiropractors, coaching, and high-performance) are the only contractors permitted to bring a Complaint through these Procedures.

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## **SECTION 2.4 INFORMAL RESOLUTION**

The Parties can try to resolve a Complaint informally at any point before a decision is made. Informal resolution is an alternative way of resolving a Complaint in a mutually beneficial way for both Parties, without having to go through a formal hearing. The Parties can attempt to informally resolve a Complaint between themselves or can request assistance from DRU and/or the Office of Athlete Ombuds at any point. If an informal resolution is reached, it will be documented in writing and submitted to DRU, and there will be no further opportunity to have a review or appeal of a Complaint.

## **SECTION 2.5 FORMAL MEDIATION**

The Parties are encouraged to engage in formal mediation efforts by reaching out to the arbitral body designated by the USOPC.<sup>3</sup> Mediation can be a successful, non-adversarial option to resolve a Complaint without going to a hearing. At any time before a decision is made, mediation can be requested by a Party, recommended by DRU, or ordered by a Hearing Panel.

## **SECTION 2.6 NON-RETALIATION**

Retaliation, as defined in the Act, is prohibited against an individual for filing a Complaint or Report under these Procedures. As referenced in the Act, any retaliation determined to have occurred by a USOPC member, an employee of the USOPC, an athlete, coach, or referee/official is a violation of the USOPC Code of Conduct and Speak Up Policy and may result in Disciplinary Action being taken.

Athletes are afforded certain protections against retaliation under the Act including that no USOPC employee, contractor, agent, volunteer, or member can take or threaten to take action against an athlete for disclosing information to or seeking assistance from the Office of the Athlete Ombuds.

## **SECTION 2.7 REPRESENTATIVE**

A party to a case brought under these Procedures may have one representative/advisor, such as an attorney or other person, present during a conference or hearing at their own expense.

## **SECTION 2.8 CONDUCT OF PARTIES**

The Parties and any representative of a party must conduct themselves respectfully and professionally in any conference or hearing, including but not limited to:

- i. Acting ethically with integrity, competence, and respect for the Hearing Panel members, other parties, and affected individuals;
- ii. Acting with empathy toward athletes and minors;
- iii. Coming fully prepared to pursue and/or defend the claims;
- iv. Being compliant with the appropriate rules, policies, and procedures;

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<sup>3</sup> As of July 31, 2023, New Era ADR is the current arbitral body designated by the USOPC as described [here](#).

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- v. Acting respectfully and professionally and not acting in a manner that is fraudulent, dishonest, or misleading;
- vi. Not engaging in conduct that is prejudicial to the administration of the process or that projects bias towards a party and/or the Hearing Panel members;
- vii. Responding diligently to any requests made by the Hearing Panel and complying with all orders and deadlines; and
- viii. Understanding that the Parties are representatives of the Olympic and Paralympic Movement and should conduct themselves appropriately.

### SECTION 2.9 RESOURCES

- A. DRU – As a part of USOPC Legal, DRU manages and administers the Complaint and hearing process for properly filed **Complaints** that are under the USOPC’s purview. Please click [here](#) to learn more about DRU.
- B. Ethics and Compliance – The USOPC promotes a culture of ethics and compliance within the USOPC, among NGBs, and among individuals and entities that engage with the USOPC and NGBs. The USOPC’s Ethics and Compliance team is responsible for ensuring the USOPC and NGBs comply with the Act, their bylaws and policies, and any other applicable laws or regulations. To learn more about Ethics and Compliance and relevant policies, please click [here](#).
- C. Mental Health – The USOPC is committed to promoting sustained well-being for Team USA athletes and strives to empower those who are in need to seek mental health assistance. To learn more about the mental health resources and services offered by the USOPC, please click [here](#).
- D. Office of the Athlete Ombuds & Legal Aid Program – The Office of the Athlete Ombuds is available to provide cost-free, confidential, and independent advice to athletes regarding their rights and to assist athletes in resolving disputes or concerns. Athletes may contact the Office of the Athlete Ombuds at [ombudsman@usathlete.org](mailto:ombudsman@usathlete.org) for information about their rights, resources, and options, including attorneys and/or the Athlete Legal Aid Program. To learn more about the Office of the Athlete Ombuds, please click [here](#).

The Office of the Athlete Ombuds offers an Athlete Legal Aid Program to assist Team USA athletes who do not have the financial means to pay the costs associated with hiring an attorney and/or the fees for a hearing under these Procedures. The Legal Aid Program can also assist Team USA athletes with other types of claims before an anti-doping organization, NGB, IF, the Center, USOPC, IOC/IPC, Court of Arbitration for Sport, or other forum that decides sport-related matters within the Olympic and Paralympic Movement. To learn more about the Athlete Legal Aid Program, please click [here](#).

- E. Team USA Athletes’ Commission – Team USA AC, formerly the USOPC Athletes’ Advisory Council, serves as the representative group and voice of Team USA athletes.

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Team USA AC is responsible for broadening communication between the USOPC and active athletes and serves as a source of input and advice to the USOPC Board of Directors. Team USA AC is available to assist and advocate for athletes regarding their rights and in resolving disputes or concerns. Athletes may contact Team USA AC at [teamusa-ac@teamusa.ac.org](mailto:teamusa-ac@teamusa.ac.org) for information about their rights and resources, or if they are interested in Team USA AC's advocacy. To learn more about Team USA AC, please click [here](#).

## SECTION 3

### INFORMAL REPORTING

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#### SECTION 3.1 INFORMAL REPORTING POSSIBLE VIOLATIONS OF RULES

If an individual is not sure whether to file a formal Complaint, an informal Report can be filed instead according to the applicable policy and procedures for the alleged Rule violation. Reports can be made by emailing DRU at [dru@usopc.org](mailto:dru@usopc.org), and DRU will notify the appropriate USOPC or IMS staff who will take the matter up.

#### SECTION 3.2 USOPC INVESTIGATION OF INFORMAL REPORT

When the USOPC or IMS has reasonable grounds to believe a Rule violation has occurred, the appropriate USOPC or IMS staff will investigate, pursue the matter, and follow the applicable policy and procedures to notify the individual alleged to have violated the Rule. This staff investigation is sometimes referred to as an initial enforcement review. DRU is not involved in initial enforcement reviews. The notification to the individual, referred to as a Notice Letter, will include a proposed sanction, the participant's rights, various timelines, and the opportunity to request a hearing through these Procedures, if applicable.

At the appropriate time, the USOPC or IMS will also inform the reporting party (if known) whether the USOPC or IMS is investigating the matter and/or proposing a sanction.

Nothing in this Section is intended to prevent an IMS or NGB from enforcing its own Rules in the normal course of its operations.

#### SECTION 3.3 USOPC DECLINING TO PURSUE AN INFORMAL REPORT

For cases where the USOPC or IMS declines to pursue an informal Report on an alleged violation, such as a potential violation of the IMS Code of Conduct, the appropriate USOPC or IMS staff will notify the reporting party (if known) that USOPC or IMS has declined to pursue the Report. The appropriate USOPC or IMS staff will advise the reporting party (if the reporting party is also under the USOPC's purview) that they may still file a Code of Conduct Complaint under these Procedures. If the reporting party elects to file a Complaint with DRU, then the reporting party is responsible for all aspects of pursuing the matter.

## SECTION 4

### COMPLAINT, HEARING, AND REVIEW PROCESS

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#### SECTION 4.1 FILING A FORMAL COMPLAINT

The filing requirements described in this Section 4.1 apply **only** to IMS Administrative, IMS Opportunity to Participate, and IMS Code of Conduct cases brought by participants other than USOPC or IMS staff.

Disciplinary Actions brought by USOPC or IMS staff are subject to the requirements in Section 4.2. Background Check Reviews are subject to the requirements in Section 4.4.

The following steps for filing a formal Complaint must be followed to initiate a hearing:

- A. Submission of Complaint – A formal Complaint must be filed online [here](#) or by emailing the applicable form to the DRU at [dru@usopc.org](mailto:dru@usopc.org). Complaints can only be filed for one type of dispute (e.g., an individual cannot file both an Administrative Complaint and an Opportunity to Participate Complaint in one filing; they must be filed as separate Complaints). Applicable online forms can be found on [www.usopc.org](http://www.usopc.org). If a Complaint is not filed online or using the correct form, it will not be considered properly filed and the hearing process will not start unless the Complaint is corrected. This is not to discourage anyone from filing a Complaint. Rather, it is meant to ensure that the individual intends to file a formal Complaint. For assistance with filing correctly, please reach out to [dru@usopc.org](mailto:dru@usopc.org).
- B. Filing Fee – A filing fee of \$250 must be submitted with a formal Complaint at the time the Complaint is filed. The filing fee may be waived by DRU upon a written request and a showing of financial hardship.
- C. Minimum Filing Requirements – The following information must be included in all Complaints:
  - i. Name and contact information of the person filing the Complaint (Complainant);
  - ii. Name of the individual or entity whom the Complaint is against (Respondent);
  - iii. Basis for the USOPC’s Jurisdiction to hear the Complaint;
  - iv. Specific Rule(s) alleged to have been violated;
  - v. Material facts and evidence supporting the allegation(s);
  - vi. Urgency of case or request for an expedited hearing;
  - vii. Specific remedy requested; and
  - viii. Signature or certification that the person is filing the Complaint on the individual’s own behalf or has express authority to file the Complaint on someone else’s behalf.
- D. Additional Filing Requirements for IMS Opportunity to Participate Complaints – In addition to the Minimum Filing Requirements in Section 4.1(C) above, the following information is required for an IMS Opportunity to Participate Complaint:



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- i. a list of all individuals the athlete believes may be adversely affected by a decision; and
  - ii. the date of the upcoming competition or event that the Complaint involves.
- E. Time Limits – A Complaint must be filed within one hundred and eighty (180) days of the date the Complainant could reasonably have known of the alleged violation, denial of an IMS Opportunity to Participate, or threat to deny an IMS Opportunity to Participate.
- F. Initial Administrative Review – DRU will conduct an initial administrative review of a Complaint to determine if it is properly filed. For a Complaint to be properly filed it must (i) satisfy the minimum filing requirements in Section 4.1(C) and 4.1(D), if applicable; (ii) be within the scope of the Rule(s) that the Complaint alleges have been violated; and (iii) be accompanied by the filing fee or waiver request for financial hardship. If DRU determines that a Complaint is not properly filed, then DRU will provide the Complainant with a chance to correct the deficiencies and re-file the Complaint. When completing this initial administrative review, DRU will not make any determinations as to the merits of a Complaint. If DRU determines that a Complaint is filed using an improper designation (e.g., an Opportunity to Participate Complaint is filed as an Administrative Complaint), then DRU will notify the Parties of the mis-designation and provide the Complainant the chance to correct the designation and re-file the Complaint.
- G. Consolidation – Matters involving multiple Complaints involving similar allegations may be consolidated into one matter by agreement of the Parties. DRU also has the discretion to consolidate multiple Complaints at the time the cases are initiated if DRU determines that the Complaints are based on similar allegations, and it would be most efficient to handle the Complaints as one matter. If a party objects to consolidation, the Hearing Panel will make the final determination on consolidation.

### SECTION 4.2 REQUEST FOR A HEARING

The requirements described in this Section 4.2 apply **only** to Disciplinary Actions brought by the USOPC or IMS as described in Section 2.1(A). IMS Administrative, IMS Opportunity to Participate, and IMS Code of Conduct cases brought by others are not subject to these hearing request requirements.

For Disciplinary Actions, because the USOPC or IMS is the entity that would bring a Disciplinary Action, there is no requirement for the USOPC or IMS to file a formal Complaint before a hearing is initiated. A Respondent to a Disciplinary Action may request a hearing when the underlying Rules and/or the Notice Letter, as relevant to the matter, permit a request for a hearing. All requests for a hearing must be made by emailing [dru@usopc.org](mailto:dru@usopc.org) and will be reviewed by DRU.

A request for a hearing must be made within the following timeframes:

- A. Emergency Cases: (e.g., during an event, such as Trials – Demonstrations and Commercial): Within 90 minutes of delivery of decision or Notice Letter or no later than 30 minutes before the conclusion of the event.
- B. Expedited Cases: Within 24 hours of delivery of the Notice Letter.
- C. Standard Cases: Within 10 days of delivery of the Notice Letter.



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DRU has the discretion to alter these timeframes, if needed, and will consider whether any such adjustment may cause harm to the Parties or affected individuals. All Parties will be given adequate notice of any altered timeframes.

Details about requesting a hearing will be set forth in the Notice Letter, as applicable, and must include any required documents (if any) as specified in the Notice Letter.

The timing and any expediency for when an actual hearing will be held can be found below in Section 4.7.

### **SECTION 4.3 FAILURE TO REQUEST A HEARING**

In the case of a Disciplinary Action or Informal Report that results in a Notice Letter being issued with a proposed sanction, the proposed sanction will be deemed accepted and take effect, unless the individual subject to the sanction requests a hearing within the specified timeframe. If a request for a hearing is not timely made, the case will be closed with no further right to have the matter reviewed.

Individuals may have additional hearing rights under third-party rules (i.e., IF, IOC, IPC, Association of National Olympic Committees, Court of Arbitration for Sport). DRU does not advise on other potential rights or rules.

### **SECTION 4.4 BACKGROUND CHECK REVIEW**

The requirements described in this Section 4.4 apply **only** to Background Check Reviews as described in Section 2.1(E). When an individual receives a Red Light through a USOPC-initiated background check or NGB-initiated background check (which will be considered a secondary review), DRU will be notified by the USOPC, IMS, or NGB to initiate the review process.

DRU will contact the individual to discuss the details of the charge(s) that resulted in the Red Light. These details will be provided to the Hearing Panel. The Hearing Panel will make a decision either by (i) reviewing the details and documentation provided without conducting a hearing; or (ii) conducting a non-adversarial hearing.

If the Hearing Panel determines that a hearing is required, DRU will issue an Acknowledgment Letter as described in Section 4.5 below. Since a Background Check Review hearing is non-adversarial, there is no requirement for a Complaint or position statement to be filed.

Any damaging or disparaging information that is later discovered about an individual after a decision or hearing on a Background Check Review (that would have been available at the time of the hearing or that comes to light because of another incident) may be grounds to reopen a Background Check Review Hearing Panel's decision. The individual may also be subject to further consequences as a potential USOPC Code of Conduct violation, which may be handled according to these Procedures. This is why it is critical for individuals to comply with their affirmative duty to self-disclose such information as detailed in the USOPC Background Check Procedures.

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## SECTION 4.5 ACKNOWLEDGMENT LETTER

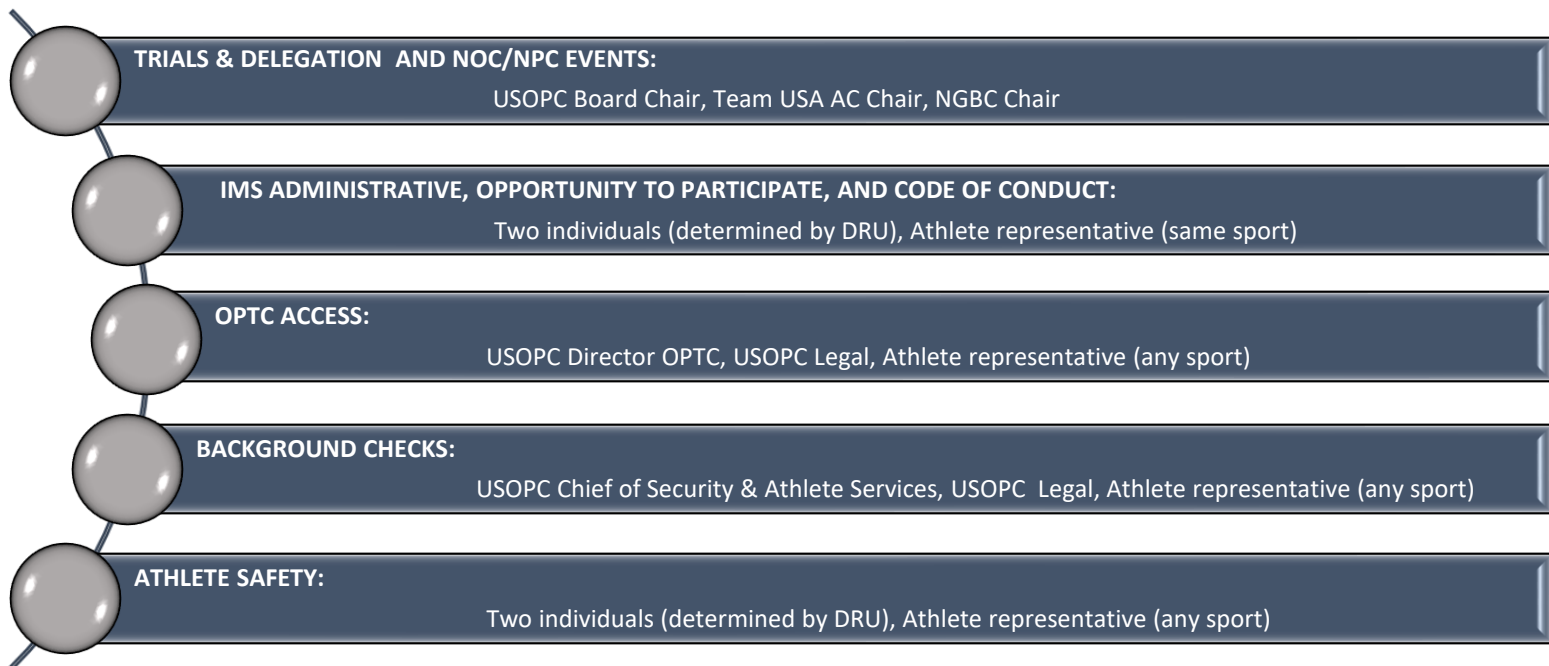
After its initial administrative review of a Complaint, request for a hearing, or Background Check Review, DRU will issue an Acknowledgment Letter via email to the Parties and to all known potentially affected individuals in IMS Opportunity to Participate complaints. The Acknowledgment Letter will provide notice that a Complaint has been filed, a request for a hearing has been made, or a Background Check Review is underway. DRU will provide the Parties with any necessary documents received. The Acknowledgment Letter may include specific hearing procedures, rights of the parties, and any applicable deadlines. DRU will issue the Acknowledgment Letter within the following timeframes:

- i. Emergency and Expedited Cases: As soon as reasonably possible.
- ii. Standard Cases: Within seven (7) business days following receipt of (i) a properly filed Complaint, (ii) request for a hearing, or (iii) Background Check Review initiation, unless there is reasonable cause for the Acknowledgment Letter to be provided later.

If a party is a minor, copies of all correspondence will be sent via email to the minor's parents or legal guardians.

## SECTION 4.6 HEARING PANEL

- A. Appointment of Hearing Panel – Upon acknowledgment and acceptance of a matter, DRU will appoint a Hearing Panel and will designate one panelist as chair of the Hearing Panel. All Hearing Panels will be comprised of three individuals in total as described in Section 4.6(B) below. DRU will notify the Parties in writing of the Hearing Panel appointments.
- B. Hearing Panel Composition – Hearing Panels will have the following compositions, or their designees, according to the type of matter going to a hearing:



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If a Hearing Panel member is involved in an initial enforcement review or Temporary Measures hearing (as further described below in Section 5.1(D)), the member will not be eligible for appointment to the Hearing Panel for a final hearing in the same matter.

- C. Disclosures – Each member of a Hearing Panel is subject to the USOPC Conflict of Interest Policy and will be required to disclose any conflict of interest to the Parties in writing.
- D. Objection to Hearing Panel Member – A party may object to the appointment of a member of the Hearing Panel on the grounds of bias, conflict of interest, or other grounds that the party believes make the Hearing Panel member unable to be impartial. The objection can be made by emailing DRU at [dru@usopc.org](mailto:dru@usopc.org) and stating the basis for the objection. DRU will review any potential grounds for removing the Hearing Panel member and will make a decision promptly about the objection. If the Hearing Panel member is removed, a replacement Hearing Panel member will be appointed promptly by DRU.
- E. Vacancies – If for any reason a Hearing Panel member is unable to perform his or her duties and a vacancy occurs, DRU will appoint a replacement Hearing Panel member promptly.

### SECTION 4.7 TIMING FOR HEARING

In all instances, a hearing will be scheduled as soon as reasonably possible. Unless otherwise agreed to by the Parties, DRU will attempt to hold a hearing the same day for Emergency Cases; within forty-eight (48) hours for Expedited Cases; within fourteen (14) days for Standard Cases related to Delegation Events; and within ninety (90) days for all other Standard Cases from the date of filing of the Complaint, request for a hearing is made, or Background Check Review is initiated. The Parties' availability will always be considered. Due to the nature of Emergency and Expedited Cases, a hearing date and time may be set immediately.

A Hearing Panel has the discretion to shorten or extend such timeframe depending on the circumstances of the case, so long as no harm is caused to a party. If a Complaint is filed less than forty-eight (48) hours before a competition, the individual understands that it may not be possible to hold a hearing before the competition. The Hearing Panel will consider fairness to all Parties as to when a hearing can be held. In an Emergency or Expedited Case, the Parties understand that these Procedures may be greatly modified for efficiency.

A decision will be made promptly and take into consideration any upcoming competition or registration deadlines.

### SECTION 4.8 ANSWER OR POSITION STATEMENTS

The Respondent will be given an opportunity to provide a written answer to the Complaint or a written position statement in a Disciplinary Action that addresses the allegations brought against the Respondent. These will be submitted by the deadlines set by the Hearing Panel, or as outlined in the Acknowledgment Letter provided by DRU. The Respondent will be required to email a copy of the answer or position statement to the Complainant. If no answer or position statement is filed

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by the appropriate deadlines, the Respondent will be considered to have admitted to the claim(s) being alleged.

### **SECTION 4.9 EXCHANGE OF INFORMATION**

Before a hearing, the Hearing Panel may issue a scheduling order that sets deadlines and requires the Parties to exchange information or documents, provide a list of anticipated witnesses or expert witnesses (with a brief description of their expected testimony), submit any exhibits that the Parties anticipate using at the hearing, or submit pre-hearing briefs.

### **SECTION 4.10 MOTION TO DISMISS**

If a Respondent believes there is a procedural issue with the case, the case does not fall under USOPC's purview, and/or the Complaint fails to state a claim upon which relief can be granted, then Respondent may file a motion to dismiss the case. The Complainant can respond to the motion within the deadline set by the Hearing Panel. The Hearing Panel will decide whether a decision can be made based on the written submissions for a motion to dismiss without a hearing or if an oral argument hearing is needed to decide the motion.

## SECTION 5

### CONFERENCES AND HEARINGS

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#### SECTION 5.1 CONFERENCES AND HEARINGS

- A. Oral Argument Hearing – Oral argument is an opportunity for the Parties to present arguments in favor of or against a motion to dismiss or any other pre-hearing motion that might be raised. An oral argument hearing is not intended to be a hearing to discuss the underlying claims and merits of a case. It will be solely to deal with the motion to dismiss or pre-hearing issues. It will be no more than one hour unless the Hearing Panel requests more time.
- B. Preliminary Conference – The Hearing Panel may schedule a preliminary conference with the Parties. It will be no more than one hour unless the Hearing Panel requests more time. The purpose of the preliminary conference is to discuss how the scheduled hearing will go, clarify the issues and claims, schedule the hearing on the merits, address any deadlines, and address any other matters that need to be discussed before the hearing on the merits.
- C. Background Check Review Hearing – A Background Check Review hearing is an informal, non-adversarial hearing that is intended to determine the scope of participation. The hearing provides the individual an opportunity to discuss the criminal charge(s) that resulted in the Red Light or self-disclosure. The hearing will be no more than one hour, unless the Hearing Panel requests more time. The individual is allowed to present any evidence or argument they wish the Hearing Panel to consider. The Hearing Panel may require that any evidence, documents, or names of any witnesses be submitted prior to the hearing. The Hearing Panel may also seek input from the relevant NGB/IMS.
- D. Temporary Measures Hearing – A Temporary Measures hearing is considered an Expedited Case to determine if there is sufficient evidence to justify the requested Temporary Measure(s) based on the known facts and circumstances of the case. It will be no more than two hours. The Hearing Panel can consider the seriousness of the allegations, the evidence supporting the allegations, and/or the perceived risk to athletes or the sports community. The sole issue the Hearing Panel will decide is whether there is reasonable cause to impose a Temporary Measure(s), not whether the Respondent is guilty of the acts alleged or what final sanctions should be applied. It is not a final hearing on the case.
- E. Hearing on the Merits – A matter that remains unresolved will proceed to a hearing on the merits. It will be no more than eight hours unless a Hearing Panel requests more time. The Hearing Panel will provide further details about the length of the hearing in the Scheduling Order. During the hearing on the merits, the Parties will be given an opportunity to present oral testimony and/or written evidence relating to the claims being made in the case, cross-examine any witnesses offered by the other party, and present

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their case as allowed by the Hearing Panel. Rules of evidence that are generally accepted in administrative proceedings will apply. The Hearing Panel has sole discretion to decide what evidence is relevant and credible, and what evidence will be excluded as unnecessary or repetitive.

### F. Miscellaneous:

- i. Truthfulness: Witnesses are expected to remain truthful during all conferences and hearings and will be held to the USOPC Code of Conduct standards.
- ii. Minors: A Hearing Panel may put in place special measures for the cross-examination of minors. Any special measures for minors will be communicated to the Parties in advance. Parents or legal guardians of minors will be kept informed throughout and may participate in the hearing.
- iii. No Ex-Parte Communications: No party is to have Ex-Parte communications with a Hearing Panel. All communications related to a case for a Hearing Panel should be directed to DRU. Each party must simultaneously provide the opposing party with any filings and submissions.
- iv. Videoconferences and Hours: All conferences and hearings will be held by video conference unless the Parties and Hearing Panel agree that an in-person conference or hearing is necessary. Conferences and hearings will be held Monday through Friday during normal business hours 8:00 a.m. to 5:00 p.m. MT, except holidays. As may be necessary in certain cases, DRU will consider and work to reasonably accommodate requests to have a conference or hearing outside of these hours.
- v. Proceedings: Each party will receive an equal amount of time to present their case. A Hearing Panel may ask questions of the Parties at any time during a conference or hearing. A Hearing Panel may consult with expert advisors as necessary.
- vi. Affected Individuals: Affected individuals in an IMS Opportunity to Participate case will be given full rights just as a party to the case and will be bound by the decision. Affected individuals and each party will have the right to appear personally or through a representative. If a party does not participate in any part of a hearing on the merits after being given notice, the hearing will continue as scheduled and a decision will be based on the evidence presented.
- vii. NGB Participation: When a case involves an NGB and is warranted, a Hearing Panel may allow an NGB to observe a conference or hearing, or have limited participation rights, such as submitting written statements.
- viii. Confidentiality: A conference or hearing referenced in these Procedures is closed to the public, and all case filings will remain confidential. Additionally, the Parties will be subject to any confidentiality provisions that may be included in related Rules.

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## SECTION 5.2 RECORDING OF HEARING

A party may request the Hearing Panel to record a hearing on the merits if such request is made in advance of a hearing and approved by the Hearing Panel. A Hearing Panel may determine in its sole discretion to record a hearing on the merits through the videoconferencing application of its choosing (e.g., Zoom, Teams, etc.) or a court reporter may be present at the hearing at the request of a party. A court reporter will be paid for by the party requesting it, or if mutually agreed, the cost may be equally incurred by the Parties. Any transcript will be paid for by the party requesting it. A Hearing Panel has the authority to request a copy of the hearing transcript from the Parties with the cost of the transcript being borne by the initial party requesting the court reporter services. Any hearing transcripts are considered confidential and cannot be utilized outside of the hearing until the Hearing Panel issues its final decision.

## SECTION 5.3 BURDEN OF PROOF/STANDARD OF REVIEW

A Hearing Panel's decision for a hearing on the merits must be based on whether a Complainant has demonstrated by a Preponderance of the Evidence that the Complainant deserves the requested relief. A hearing on the merits will be a de novo hearing as defined in Section 1.

For Disciplinary Actions, if a violation is found through a majority of the evidence presented, a Hearing Panel will then determine a proportionate sanction. A Hearing Panel can consider a previously proposed sanction but is not bound by it. A hearing on the merits of Disciplinary Actions will be a de novo review of the underlying violation, along with the sanction. The Parties may agree to the occurrence of a violation, and if so, the scope of the hearing will be limited to examining the sanction.

For any case involving a criminal charge or criminal disposition, the scope of the hearing on the merits will be limited to examining only the sanction.

## SECTION 5.4 HEARING PANEL CONSIDERATIONS

For Background Check Reviews, Disciplinary Actions, and Code of Conduct Complaints, a Hearing Panel may consider the following when rendering their decision:

- a. The legitimate interest of the USOPC in providing a safe environment for athletes and other individuals who reside, train, or compete at OPTCs, participate in Delegation Events, and/or USOPC-sponsored events;
- b. The individual's health, safety, and well-being and the health, safety, and well-being of others who are training and/or residing at the OPTC, along with the health and safety of the USOPC staff working at the OPTC;
- c. Whether the individual poses an ongoing concern;
- d. The seriousness of the alleged violation;
- e. Repeated violations;
- f. The time that has elapsed since the occurrence of the original criminal offense, act, or violation;
- g. The age of the person at the time of occurrence of the original criminal offense, act, or violation;
- h. The individual's ability to perform the necessary functions of their role or otherwise be a representative of the U.S. Olympic and Paralympic Movement;



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- i. Any information produced by the individual, or produced on behalf of the individual concerning the individual's rehabilitation and good conduct;
- j. Any voluntary restrictions on access proposed by the individual;
- k. Any recommendation or information provided by the individual's NGB/IMS; and
- l. Any other information about whether or not the individual should represent the U.S. Olympic and Paralympic Movement.

### SECTION 5.5 HEARING PANEL DECISION

A decision will be determined by a majority of a Hearing Panel (i.e., at least two votes in favor of the decision) and will go into effect immediately unless otherwise stated.

In Disciplinary Actions, no sanction will take effect until either the time has lapsed to request a hearing or the Hearing Panel has issued a final decision. The Hearing Panel will issue written reasoned decision within forty-five (45) days, which means the decision will be detailed and well-thought out. For Emergency and Expedited Cases, a final decision may be given in a shorter timeframe taking into consideration any upcoming competition or registration deadlines.

For Background Check Review hearings, the Hearing Panel will issue a written decision, but the decision is not required to be reasoned.

The decision of the Hearing Panel is final and binding. However, if the decision materially affects an individual's right to participate in a Protected Competition as defined in the USOPC Bylaws, then the decision can be appealed to the arbitral body designated by the USOPC.

### SECTION 5.6 SANCTIONS

For Disciplinary Actions, Background Check Reviews, and Code of Conduct Complaints, a Hearing Panel may impose sanctions, including, but not limited to:

- a. Warning or probation;
- b. Fine;
- c. Return of any equipment, uniform, or attire provided as part of Team USA;
- d. Limitation on further access to USOPC facilities and/or competition venues;
- e. Restrictions on USOPC, Delegation, or NOC/NPC Event-related activities;
- f. Loss of participation in USOPC-sponsored events or future Delegation Events or NOC/NPC Events;
- g. Loss of funding;
- h. Loss of access or restriction on services;
- i. Loss of health insurance;
- j. Suspension for a specified duration;
- k. Expulsion from USOPC facilities and/or Delegation Events or NOC/NPC Events;
- l. Loss of privilege to march or otherwise participate in the Opening and/or Closing Ceremony at Delegation Events;
- m. Lifetime ban/permanent ineligibility; and/or
- n. Performance of a specified task(s), such as a formal written and/or oral apology or completion of training or education on diversity, equity, and inclusion.



## SECTION 6

### APPEALS

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#### SECTION 6.1 RIGHT TO APPEAL TO ARBITRATION

Except for non-appealable matters described in Section 6.2 below, a party that is not satisfied with a decision rendered under these Procedures may appeal a decision of a Hearing Panel to the arbitral body designated by the USOPC to hear Olympic and Paralympic-related disputes. A decision appealed to arbitration will be subject to and follow the United States Olympic & Paralympic Movement Arbitration Rules. The appeal to arbitration must be made within ten (10) days after a Hearing Panel issues its final decision to the Parties. If a matter is appealed, the decision of an arbitrator will be final and binding.

There is a right to appeal to arbitration for the following matters:

USOPC Athlete Safety
IMS Administrative
IMS Code of Conduct
IMS Opportunity to Participate
Background Check Review

If the timeframe for filing an appeal to arbitration has passed or an informal resolution has been reached prior to arbitration, there will be no further right to appeal to arbitration.

#### SECTION 6.2 APPEAL LIMITATIONS

There is no right of appeal to arbitration in the following matters:

OPTC Access
Trials & Delegation Events
NOC/NPC Events

#### SECTION 6.3 DIRECT TO ARBITRATION

For the types of matters listed in Section 6.1 **only**, the Parties may agree to bypass these internal hearing Procedures and may instead proceed directly to arbitration through the arbitral body designated by the USOPC. The Parties will bear their own costs and fees for an arbitration. For USOPC Athlete Safety matters, Athlete Safety will cover all arbitration costs and fees for a Temporary Measures Hearing if the individual agrees to proceed directly to arbitration in those instances. The arbitration will be subject to and follow the United States Olympic & Paralympic Movement Arbitration Rules.

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### **SECTION 6.4 BURDEN OF PROOF/STANDARD OF REVIEW ARBITRATION APPEAL**

For an IMS Opportunity to Participate Complaint that involves a Team USA athlete, an arbitration appeal hearing will be under de novo review.

For all other Complaints, the arbitration appeal hearing will be based on the prior record from the decision of a Hearing Panel. The standard of review will be whether (i) a Hearing Panel erred, (ii) a Hearing Panel acted arbitrarily and capriciously, (iii) a Hearing Panel lacked a rational basis for its decision, or (iv) the hearing lacked fundamental fairness. During an arbitration appeal hearing, consideration may be given to factors listed in related Rules. The party appealing a Hearing Panel decision shall bear the burden of proof.

## SECTION 7

### PROCEDURE ADMINISTRATION

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#### SECTION 7.1 PROCEDURE HISTORY

Publication Type	Procedure Approver	Publication Date	Next Scheduled Review	Summary of Changes
Initial Publication	COO & GC	4/01/23	May 2024	N/A – initial publication
Scheduled Review	COO & GC	5/31/2024	Q4 of 2024	Simplified language and added initial administrative review
Procedure Update				