

US Olympic and Paralympic Committee Policy



Policy Name: USOPC Dispute Resolution Policy

Publication Date: 4/1/2023

Governing Policy Owner: USOPC Legal Department

Applies to: Athletes and other members of National Governing Bodies (NGBs), the USOPC and other amateur sports organizations

Purpose: This policy sets out how complaints contemplated in the USOPC Bylaws are administered by the USOPC, via its Dispute Resolution Unit (“DRU”)¹. Specifically, this policy applies to complaints referenced in the USOPC Bylaws under Sections 8, 9, 10, 11 and 19.²

Policy Statement: The USOPC is committed to providing effective and efficient dispute resolution services for NGBs, athletes, and other constituents and other amateur sports organizations for grievances that fall under the USOPC’s jurisdiction that are referenced in the USOPC Bylaws under Sections 8, 9, 10, 11 and 19.

This policy contains information formerly included in the USOPC Bylaws. It will be published and maintained with the Bylaws online for easy access.

1. DRU Grievance Process for NGB Governance and Compliance Complaints (Sections 8, 10 and 11)

A. The Complaint and Minimum Filing Requirements. The complaint³ will be in writing, signed by the individual or the chief executive officer of the group or organization making the complaint.⁴ The complaint will be submitted to the Dispute Resolution team by e-mail at dru@usopc.org and will be served on the applicable NGB with proof of service attached.⁵ The complaint will set forth the factual allegations in numbered paragraphs, each paragraph containing a single factual allegation, and will contain, at a minimum, the following:

- i. the names and addresses of the parties;
- ii. the jurisdictional basis of the complaint;
- iii. the factual basis of the complaint;
- iv. any efforts already made to resolve the complaint prior to initiation of the proceeding;

¹ For more information on the DRU, please visit teamusa.org.

² DRU supports and administers other complaint processes such as Background Checks, Athlete Safety, Internally-Managed Sports, and other matters. Any complaint process not referenced in this policy will be administered pursuant to the applicable USOPC procedures for that complaint type.

³ In Section 11 of the USOPC Bylaws and Section 220528 of the Act the complaint is referred to as an application.

⁴ For Section 8, the complaint will be signed by the Chief of Compliance.

⁵ E-mailing the CEO or Board Chair of the NGB will be sufficient to show proof of service.

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- v. the alleged grounds of non-compliance;
 - vi. the supporting evidence or documentation forming the basis of the complaint; and
 - vii. the relief sought.
- B. Multiple Complaints.** If multiple complaints for the same sport are filed, the complaints will be considered in a single proceeding if the additional complaints are filed before the preliminary hearing is held on the first complaint.
- C. Filing Fee.** Any filing fee will be made payable to the USOPC.
- i. **Section 8:** There is no filing fee for Section 8.
 - ii. **Section 10:** Individual filing⁶ will be \$250. Organizational filing will be \$500.
 - iii. **Section 11:** \$500
- D. Failure to Properly File.** A complaint that is not filed in accordance with Sections 2 (A) & (C) will render the filing ineffective and the complaint will not be considered to have been properly filed with DRU. DRU will notify the individual or corporation of the deficiency and provide them with an opportunity to correct the issue.
- E. Administration.** Complaints will be administered by DRU. When a complaint is properly filed, DRU will promptly acknowledge the complaint with the parties and the chair of the AAC and notify any necessary internal corporation staff, of the complaint and confirm that the complaint has been served on the relevant NGB.
- F. Hearing Panel.** The complaint will be heard by an impartial hearing panel. The hearing panel will consist of a panel of three individuals appointed by the USOPC Board chair in consultation with the Athletes' Advisory Council (AAC) and National Governing Bodies Council (NGBC) leadership. The hearing panel will consist of one member of the USOPC Board (who will chair the panel), one individual who is a member of the NGBC and one individual who is a member of the AAC. The hearing panel will not include any individual having a direct interest, either personally or by virtue of organizational affiliation, in the outcome of the proceeding.
- If for any reason a hearing panel member is unable to perform their duties and a vacancy occurs one week prior to the commencement of the hearing on the merits, the USOPC Board chair will appoint a substitute hearing panel member in consultation with the AAC and NGBC, as appropriate. If a vacancy occurs within one week of the commencement of the hearing, the remaining hearing panel members may continue with the hearing and render a decision on the complaint, unless the parties agree to have a substitute hearing panel member appointed.
- G. Communication with the Hearing Panel.** No party and no one acting on behalf of any party will communicate directly with a hearing panel member about anything related to the complaint or the proceeding unless the communication is simultaneously provided to all hearing panel members and parties involved. All communication will be made through DRU.

⁶ An individual may request that the filing fee be reimbursed for reasons of significant financial hardship or just cause. If such request is made, the hearing panel will determine whether or not to reimburse the filing fee. For further information on support available to athletes in the area of dispute resolution, please see the USOPC Office of Athlete Ombuds page on teamusa.org.

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- H. Mediation.** At the request of a party, the hearing panel may adjourn the proceeding to allow for mediation of the complaint. The hearing panel will set a deadline for completion of the mediation. DRU will appoint a mediator, after consultation with the parties. The mediator will not be a member of the hearing panel associated with the complaint. The parties will bear all costs associated with the mediation.
- I. Conduct of the Proceeding.** The hearing panel will have the authority to rule on all motions and other matters raised in the proceeding. The hearing panel will set such timelines and other rules regarding the proceeding, and the conduct of the hearing, as it deems necessary.
- J. Time Computation.** In computing any period of time, the last day of the period so computed will be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. The parties may modify any period of time by mutual agreement and consent of the hearing panel. The hearing panel may extend any period of time as it deems necessary.
- K. Exhaustion of Remedies.** The individual or organization that filed the complaint is encouraged to engage in applicable NGB grievance resources and remedies before filing a complaint. Based on all the facts before it, the hearing panel may determine that specific NGB resources and/or remedies should be carried out before the hearing panel will further consider the complaint.
- L. Motion to Dismiss.** If the NGB contends that there is a procedural or jurisdictional defect that would preclude a hearing on the merits or that the complaint fails to state a claim upon which relief can be granted, it may move to dismiss the complaint. The motion to dismiss will set forth the grounds for dismissal and will be filed within 30 days after receipt of the complaint by the NGB. The individual or organization that filed the complaint will be given the opportunity to submit papers in opposition to the NGB's motion to dismiss. The hearing panel will determine whether or not to have oral argument on the motion to dismiss.
- M. Answer.** If no motion to dismiss is filed, the NGB will file an answer within 30 days after receipt of the complaint by the NGB. If the hearing panel finds against the NGB with respect to its motion to dismiss, the NGB will file an answer to the complaint within 30 days after the hearing panel issues its decision on the motion to dismiss. If no answer is filed within the stated time, the NGB will be deemed to have agreed with the claim.
- N. Hearing Timeframe and Waivers.** The hearing panel will hold a hearing as soon as reasonably possible. Under Section 10, if the hearing panel is unable to hold a hearing within 90 days and under Section 11 within 180 days, it will ask the parties to waive this particular requirement in writing.
- O. Preliminary Hearing.** Either on its own directive or at the request of a party, the hearing panel may schedule a preliminary hearing with the parties. The preliminary hearing may be conducted by video conference at the hearing panel's discretion. During the preliminary hearing, the parties and the hearing panel will discuss the future conduct of the proceeding, including clarification of the issues and claims, a schedule for the hearing and any other preliminary matters.

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- P. Exchange of Information.** Either on its own directive or at the request of a party, the hearing panel may direct the production of documents and other information. Further, the hearing panel may require that the parties (i) identify any witnesses the parties intend to call at the hearing, (ii) exchange copies of all exhibits the parties intend to submit at the hearing, and (iii) submit pre-hearing briefs. The hearing panel will set due dates for the exchange of such information. The hearing panel is authorized to resolve any disputes concerning the exchange of information, including but not limited to, appointing a special master.
- Q. Recording the Proceedings.** Proceedings may be recorded by a court reporter upon the request of a party. The party making the request will pay for the services of the court reporter, or if the parties mutually agree, the cost may be equally divided between the parties. A party requesting a transcript will pay for the cost of the transcript. Any transcript ordered by a party will be made available to the hearing panel upon request of the hearing panel.
- R. Hearing.** Provided that the complaint is not dismissed, the hearing panel will hold a hearing on the merits of the complaint. The hearing panel will set such timelines and other rules regarding the hearing as it deems necessary.

At any hearing, all parties will be given a reasonable opportunity to present oral and written evidence, to cross-examine witnesses, and to present such factual or legal claims as desired. Rules of evidence generally accepted in administrative proceedings will be applicable. The hearing panel will determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence it deems to be cumulative or irrelevant. The hearing panel will have the right to question witnesses or the parties to the proceeding at any time.

The burden of proof will be upon the individual or organization that filed the complaint and they will also initially have the burden of going forward with the evidence. The NGB will then have the burden of going forward with evidence in opposition to the complaint and in support of the NGB's position.

The individual or organization that filed the complaint must establish by a preponderance of the evidence that the NGB has failed to meet one or more of the criteria of the USOPC Bylaws and/or the Ted Stevens Olympic and Amateur Sports Act (the Act).

There are additional requirements for an organization that filed a Section 11 complaint in which they must establish by a preponderance of the evidence as follows:

- i. it meets the eligibility requirements for certification as an NGB under Section 220522 of the Act; and
- ii. a) the current NGB does not meet the criteria of Section 8 of the USOPC Bylaws or Sections 220522-220525 of the Act, or
b) or the applicant more adequately meets the criteria of Section 220522 of the Act, is capable of more adequately meeting the criteria of Section 8 of the USOPC Bylaws and Sections 220523-220524 of the Act, and provides, or is capable of providing, a more effective national and international program of competition than the current NGB in the sport for which it seeks certification.

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Any hearing on Section 8 and 10 complaints will be closed to the public and all case filings will remain confidential.

- S. Public Hearing – Section 11.** Any hearing on a Section 11 complaint will be open to the public but all case filings will remain confidential. As hearings in Section 11 complaints are open to the public, the USOPC will be required to publish notice of the time and place of the Section 11 hearing on its website at least 30 days, but not more than 60 days, prior to the date of the hearing. The parties, at the direction of the hearing panel, will send written notice, including a copy of the Section 11 complaint, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the parties in that sport.
- T. Decision.** A decision will be determined by a majority of the hearing panel. The hearing panel will issue a written reasoned decision of its findings. The decision will be made public and published on the corporation's website.

If the hearing panel determines that the NGB is in compliance with its requirements or that the NGB should continue as the NGB for its sport under Section 11, it will so notify the USOPC Board, the individual or organization that filed the complaint and the NGB. For Section 8, this decision will be final and binding.

If the hearing panel determines that the NGB is not in compliance with its requirements, it will so notify the USOPC Board, the individual or organization that filed the complaint and the NGB. The hearing panel will then make a recommendation to the USOPC Board to either place the NGB on probation or to revoke membership and decertify the NGB. Under Section 11, the hearing panel will make an additional recommendation to either (i) declare a vacancy in the NGB for that sport, or (ii) certify the organization that filed the complaint as the new NGB.

However, if the hearing panel finds that the NGB's non-compliance can readily be rectified, then prior to making a recommendation to the USOPC Board, the hearing panel may issue an order directing the NGB to take such action as is appropriate to correct the deficiency, and if such deficiency is corrected, the hearing panel may then make a finding of compliance.

- U. Action of the USOPC Board.** Upon receipt of the hearing panel's notification of non-compliance and as soon as is practicable, the USOPC Board will review the hearing panel's recommendation and determine whether to:
- i. place the NGB on probation for a specified period of time, not to exceed 180 days, which it considers necessary to enable the NGB to comply with its requirements; or
 - ii. revoke membership and decertify the NGB.

Additionally for Section 11, the USOPC Board will consider whether to:

- i. declare a vacancy in the NGB for that sport; or
- ii. revoke the membership and decertify the NGB and certify the organization that filed the complaint as the new NGB for that sport.

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In making its determination, the USOPC Board will consider the recommendation of the hearing panel but is not bound by it. The USOPC Board will not hold a further hearing on the matter but will only be required to consider the recommendation provided to it. For Section 8 proceedings, there will be no right of appeal and the action of the USOPC Board will be final and binding on the NGB.

- V. Probation.** If an NGB is placed on probation, it will, at the conclusion of the probationary period, submit a report to the hearing panel as to whether or not it is in compliance. The hearing panel will then convene to consider the report.

If, after considering the report of the NGB, the hearing panel determines that the NGB is in compliance with its requirements, it will so notify the USOPC Board, the individual or organization that filed the complaint and the NGB.

If, after consideration of the report of the NGB, the hearing panel determines that the NGB is not in compliance with its requirements, it will so notify the USOPC Board, the individual or organization that filed the complaint and the NGB. If the hearing panel determines that the NGB has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with its requirements, the hearing panel may recommend to the USOPC Board that the probationary period be extended.

If, at the end of the probationary period allowed by the USOPC Board, the NGB has not complied with its requirements, the USOPC Board will revoke membership and decertify the NGB. Additionally, under Section 11, the USOPC will make a determination to either (i) certify the organization that filed the complaint as the new NGB or (ii) declare a vacancy in the NGB for that sport.

- W. Arbitration for Section 10 and 11.** There will be no right of appeal to any other body of the corporation from a decision of the hearing panel or from a remedy imposed by the USOPC Board for Sections 10 and 11. Any party that considers itself aggrieved by a decision of the hearing panel on the merits of the complaint or by a remedy imposed by the USOPC Board may, within 30 days after such decision or imposition of remedy, file a demand for arbitration with the arbitral organization designated by the USOPC Board. The USOPC has the right to participate in the arbitration proceeding in any capacity, but it cannot be involuntarily joined by a party or by an arbitrator appointed by the arbitral organization. The arbitration hearing will be open to the public.

Any party that considers itself aggrieved will be entitled in a demand for arbitration to raise any jurisdictional or procedural objection to the complaint raised in its original motion to dismiss but determined against it by the hearing panel that considered the jurisdictional or procedural challenge. The scope of any arbitration proceeding is to determine if the hearing panel erred in its decision. Any arbitration panel that hears an appeal of a motion to dismiss will be precluded from hearing an appeal of the merits on the same case. In any arbitration panel ruling reversing a granted motion to dismiss, the panel must remand the matter to the original USOPC hearing panel for a hearing on the merits.

The arbitrator will render a reasoned award in writing. All such awards will be made public and published on the USOPC's website. The arbitral award will be binding upon the

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parties, and unless the award is inconsistent with the terms of the Act, the USOPC Bylaws, this policy or the rules of the IOC.

X. Replacement of NGB under Section 11. If the USOPC Board upholds the complaint of an amateur sports organization to replace the incumbent as the NGB and there is no appeal, or if there is an appeal and the final arbitration award upholds the application of an amateur sports organization to replace the incumbent as the NGB:

- i. such new organization will be deemed certified and a member in the corporation, and the certification and membership of the incumbent NGB will be deemed to be revoked without further action of the USOPC Board; and
- ii. The incumbent NGB will cease to exercise the authority of an NGB as specified in Section 220523 of the Act.

The USOPC Board will, within 60 days after such award, recommend and support in any appropriate manner, the new NGB to the appropriate international sports federation or organization for recognition by such federation or organization as the United States NGB in that sport. Such action will include, without limitation, formally advising such federation or organization of the decision of the USOPC Board and recommending acceptance of such action by the federation or organization.

In the event that there is a significant delay in the acceptance of the new NGB as the United States member in such international federation or organization, the USOPC Board will take any and all steps that may be necessary to protect the right of United States athletes to participate in international amateur athletic competition.

2. DRU Grievance Process for Participation Complaints (Section 9)⁷

A. The Complaint and Minimum Filing Requirements. The complaint must be in writing and filed on the form provided by the USOPC. Such form will be set forth on the USOPC's website and will be submitted to DRU through the online portal or by e-mail at dru@usopc.org, copying the applicable NGB. The complaint will set forth the factual allegations in numbered paragraphs, each paragraph containing a single factual allegation, and will contain, at a minimum, the following:

- i. the name and addresses of the parties;
- ii. the factual and legal basis upon which the individual filing the complaint alleges that his or her opportunity to participate has been or will be denied;
- iii. the upcoming competition that is the subject of the complaint;
- iv. a list of affected athletes, if any; and
- v. the relief sought as it relates to participation rights.

B. Failure to Properly File. A complaint that is not filed in accordance with Section 2(A) of this policy will render the filing ineffective and the complaint will not be considered to have been properly filed.

⁷ NOTE: Some of the content of this Section also appears in Section 9 of the USOPC Bylaws and is included here again for easy and comprehensive access to all dispute resolution information.

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- C. Administration.** Complaints will be administered by DRU. When a complaint is properly filed, DRU will promptly notify the Athlete Ombuds, the chair of the AAC and any necessary internal corporation staff of the complaint and confirm that the complaint has been served on the NGB.
- D. Action by the USOPC and the Office of the Athlete Ombuds.** Upon the filing of the complaint, DRU and the Athlete Ombuds will review the complaint, seek information as to the merits of the complaint, and determine whether the complaint can be informally resolved to the satisfaction of the parties. The parties will cooperate with DRU in providing information regarding the complaint and in exploring resolution of the complaint. If the complaint is not resolved or otherwise pursued through arbitration within 60 days, DRU will close the complaint.
- E. Arbitration.** If the complaint is not settled to the athlete's satisfaction the athlete may file a claim with the arbitral organization designated by the USOPC Board against the NGB for final and binding arbitration. If an impending competition requires immediate resolution of the complaint, an athlete may file a claim with the arbitral organization simultaneously with the filing of the complaint with the USOPC.

The USOPC has the right to participate in the arbitration proceeding in any capacity, but it cannot be involuntarily joined by a party or by an arbitrator appointed by the arbitral organization.

The arbitrator will render a reasoned award in writing. All such awards will be made public and published on the USOPC's website.

- F. Affected Parties.** In any arbitration brought pursuant to Section 2 of this policy, the athlete filing the claim will submit with the claim a list of all individuals the athlete believes may be adversely affected by the arbitration. The NGB will also promptly submit to the arbitrator a list of individuals it believes may be adversely affected by the arbitration, along with the relevant contact information for the individuals identified by the NGB and by the athlete. If requested by the arbitrator, the USOPC may also include a list of parties it believes to be affected. The arbitrator has the ultimate authority to determine which individuals will be included in the pool of affected athletes. The arbitrator will then promptly provide those individuals with notice of the arbitration. The arbitrator will also approve the notice to be given. Any individual identified as an affected party and so notified of the claim, will have the option to participate in the arbitration as a party. If an individual is notified of the claim, then that individual will be bound by the decision of the arbitrator even though the individual chose not to participate.
- G. Expedited Procedures.** Upon the request of a party, claims may be heard on an expedited basis if filed for arbitration with at least 48 hours in advance of the upcoming competition (or participation deadline) and provided that it is necessary to expedite the proceeding in order to resolve a matter relating to a competition that is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision to do justice to the affected parties. The arbitrator will hear and decide the claim within 48 hours of the filing of the claim. In such case, the arbitrator is authorized to hear and decide the claim under such procedures as are necessary, but fair to the parties involved. Additionally, the USOPC may take necessary measures to

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ensure that all parties, including the affected athletes, have timely notice of the claim.

- H. Time Bar.** A claim against the NGB will be prohibited unless filed with the arbitrator no later than 180 days after the alleged date of denial and the competition that is the subject of the dispute is still upcoming.
- I. Anti-Doping Violations.** A pending case or decision concerning an anti-doping rule violation under the jurisdiction of, or adjudicated by, an anti-doping organization is not reviewable through, or the subject of, Section 2 of this policy.
- J. SafeSport Violation.** An allegation or decision concerning a SafeSport rule violation that is either accepted under the jurisdiction of the U.S. Center for SafeSport (USCSS) or adjudicated by the USSCS (or was previously adjudicated by an NGB prior to the opening of the USSCS) is not reviewable through or the subject of Section 2 of this policy.
- K. Field of Play Decisions.** The final decision 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) is not reviewable through or the subject of Section 2 of this policy 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 Section K, the term “referee” includes any individual with discretion to make field of play decisions.
- L. Complaints Regarding Compliance.** No action taken by an athlete under Section 2 of this policy precludes, or acts as a bar, to the filing of a complaint by the athlete.

3. DRU Grievance Process for Delegation Events Complaints (Section 19)

- A. Delegation Event Enforcement Matters.** There will be a Delegation Events and Trials USOPC Rules Application Panel that will oversee and enforce USOPC rules in force during a trials or delegation event. The USOPC Rules Application Panel will review incidents of misconduct and make determinations whether a participant at trials or delegation member at a delegation event has violated a USOPC rule. If a violation is found, the USOPC Rules Application Panel will propose a proportionate sanction. The USOPC Rules Application Panel will consist of at least three internal USOPC staff, with the USOPC General Counsel and Chef de Mission reviewing every determination made.
- B. Informal Resolution at Delegation Events.** If the USOPC Rules Application Panel finds that a trials participant or Games delegation member has violated a USOPC rule, the General Counsel and/or Chef de Mission, in conjunction with the USOPC CEO, may attempt to informally resolve the dispute with the individual at any time prior to a hearing in front of the Games or Trials hearing panel. The Office of the Athlete Ombuds and DRU will be provided notice of the matter and may assist in resolving the dispute, including engaging an external and neutral mediator.
- C. Hearing Panel.** There will be a Delegation Events and trials hearing panel which will serve to hear disputes (that otherwise cannot be resolved informally) involving an

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alleged violation of a USOPC rule in effect at the applicable Delegation Event or trials or during the time period that the USOPC has jurisdiction over a participant or delegation member.⁸ The hearing panel will have final and binding authority to determine if a violation occurred, and if so, the resulting proportionate sanctions. The conduct of the proceeding will follow the hearing procedures for the specific trials or Delegation Event.

The hearing panel does not have the authority to hear disputes concerning team selection issues and NGB Code of Conduct violations, which are otherwise governed by the NGB Code of Conduct and NGB Grievance Procedures or Section 2 of this policy.

The hearing panel will consist of the USOPC Board chair, the chair of the AAC, and the chair of the NGBC. The hearing panel will be completely separate from the USOPC Rules Application Panel and will not have been involved in any decision-making capacity for the underlying matter and will act as an impartial and neutral body when rendering a decision.

In the case of (i) their unavailability or (ii) an actual or apparent conflict of interest as to a particular matter before the hearing panel, any member may designate an alternate to serve for a limited time. Failing such a designation by the member, the USOPC Board chair may designate an alternate for any absent member, who will exercise all of the privileges of that absent member for a limited time. The USOPC Board chair will chair these hearings, which will be held by video conference. DRU will assist in administration of the hearing in accordance with the Dispute Resolution Procedures.

4. Policy History

Publication Type	Policy Approver	Publication Date	Next Scheduled Review	Summary of Changes
Initial Publication	USOPC Board	April 1, 2023		N/A
Scheduled Review				
Policy Update				

⁸ USOPC rules may include requirements for demonstrations, commercial markings, and other behavioral requirements.