

UNITED STATES OLYMPIC & PARALYMPIC MOVEMENT ARBITRATION RULES

Administered by New Era ADR, Case No. 26012213

In the Matter of the Arbitration Between:

ASHTON SALWAN (“Mr. Salwan” or “Claimant”),

Claimant

v.

U.S. SKI & SNOWBOARD (“Respondent”)

Respondent,

And

QUINN DEHLINGER; CHRIS LILLIS; CONNOR CURRAN; DEREK KRUEGER
(collectively, “Affected Athletes”)

FINAL AWARD

I, THE UNDERSIGNED ARBITRATOR, having been designated by New Era ADR, and in accordance with the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C., §220505 et seq., and Section 9 of the United States Olympic and Paralympic Committee ("USOPC") Bylaws, (effective April 1, 2024) and the USOPC Arbitration Rules (“Arbitration Rules”), having been duly sworn, and having heard and considered the arguments of the parties and their counsel during an approximately 90 minute video hearing held on Saturday, January 24, 2026, and having considered the parties’ written submissions, exhibits, testimony, and legal authorities, FIND and DECIDE as follows:

Factual Background

Claimant, Ashton Salwan, sought expedited review of U.S. Ski & Snowboard’s (“Respondent”) nomination of Freestyle Aerials athletes to the 2026 Olympic Team under its Freeski / Freestyle Athlete Selection Procedures for the 2026 Winter Olympic Games (the “Selection Procedures”). The Selection Procedures were originally published on May 2, 2025 and amended on June 16, 2025.

The Selection Procedures established four sequential methods for nomination:

- Selection Method 1: FIS Base List 2026 ranking;
- Selection Method 2: best single podium result in evaluative events;
- Selection Method 3: discretionary selection through athlete petition;
- Selection Method 4: next highest result in an evaluative event.

The Selection Procedures state that “[a]thlete quota allocation will be assigned in numerical order of Selection Methods 1-4.” (Selection Procedures at Section 2). The Selection Procedures identify “Medal Capable Athlete” status as the key element for consideration when evaluating petitions for discretionary status under Selection Method 3, and define a “Medal Capable Athlete” as “an athlete who had a Top 6 individual World Cup finish in the 2025-26 season prior to January 19, 2026.” (Selection Procedures at Section 7.2). The Selection Procedures further state that “[i]f quota slot(s) remain after applying Selection Methods 1, 2, and 3, athletes will be nominated utilizing the next highest result in an Evaluative Event (see Section 5) across disciplines with available quota slot(s).” (Selection Procedures at Section 6.2.4).

The U.S. Ski & Snowboard Freestyle and Freeski Selection Committee (the “Selection Committee”) met on January 19, 2026. The Selection Committee consisted of: U.S. Ski & Snowboard Chief of Sport Anouk Patty; Senior Vice President of High Performance Gillian Bower; Freestyle Sport Director Matt Gnoza; Freeski Sport Director Skogen Sprang; Freestyle Committee Chair Mike Page; Freeski Committee Chair Jason Arens; and “non-competing” Athlete Representatives Troy Murphy, Tom Wallisch, Whitney Gardner, and Maggie Voisin. Kris Frkovic, an independent observer, was also present. (Respondent Brief at 2).

The Selection Committee determined that the following four athletes qualified for nomination to the Olympic Men’s Aerial team:

- **Quinn Dehlinger**, via Selection Method 1, based on his status as the top American in the top 3 on the FIS Base List 2026;
- **Chris Lillis**, via Selection Method 2, based on his podium result, 3rd place on December 6, 2025;
- **Connor Curran**, via Selection Method 4, based on his 4th place finish;
- **Derek Krueger**, via Selection Method 4, based on his 4th place finish.

Claimant filed a petition seeking discretionary selection under Selection Method 3. The Selection Committee denied Claimant’s petition (and discretionary petitions from other athletes), noting that “none of the male athletes that filed petitions have a strong case to be chosen because they were objectively outperformed.” (Selection Committee Meeting Minutes at 5).

The following results were relevant to the selection process:

- Claimant’s evaluative-event placements were:
 - 10th – Secret Garden (Dec. 20, 2025)
 - 10th – Lac-Beauport (Jan. 6, 2026)
 - 11th – Lac-Beauport (Jan. 7, 2026)
 - 13th – Ruka (Dec. 6, 2025)
 - 17th – Lake Placid (Jan. 12, 2026)

- 23rd – Lake Placid (Jan. 11, 2026)
- Connor Curran’s best evaluative-event placements were a 4th place finish at Lac-Beauport on January 6, 2026, and a 6th place finish at Lac-Beauport on January 7, 2026.
- Derek Krueger’s best evaluative-event placements were a 4th place finish at Lake Placid on January 11, 2026, and a 7th place finish at Lac-Beauport on January 6, 2026.

Jurisdictional Matters and Standard of Review

The Arbitrator has undisputed jurisdiction to resolve this dispute pursuant to Sections 9.1 and 9.2 of the USOPC Bylaws.

The standard of review in cases arising under Section 9 of the USOPC bylaws is de novo. It is well-established that “Section 9 proceedings are not appeals of NGB decisions and there is no requirement for an arbitrator in these proceedings to give any deference to any prior decision and in fact it would be incorrect to do so.” *Craig v. USA Taekwondo, Inc.*, AAA Case No. 77 190E 00144 11 (August 21, 2011). It is equally well-established that the arbitrator may not “substitute his judgment or conclusions regarding the qualifications of the complainants for that of the [NGB].” *Blumer v. United States Ski & Snowboard Association*, AAA Case No. 30 190 0002798 (January 30, 1998).

Claimant has the burden of proving his claims by a preponderance of the evidence. See, e.g., *Jones v. Bobsled and Skeleton*, New Era Case No. 25110403 (Dec. 15, 2025); *Jurak v. U.S. Speedskating*, AAA Case No. 01 22 0000 1852 (January 28, 2022).

Section 9 jurisprudence requires Claimant to prove by a preponderance of the evidence that Respondent “breached its approved and published...Selection Procedures...applied them inconsistently to athletes similarly situated, acted in bad faith towards or with bias against [Claimant], and/or violated applicable federal or state laws (e.g., *Ted Stevens Olympic and Amateur Sports Act*).” *Hyatt v. USA Judo*, AAA Case No. 01 14 0000 7635 (June 27, 2014). A decision by an NGB which has no rational basis, “i.e., is unreasonable, arbitrary, or capricious” will not be upheld. Some cases refer to this standard as “clear error or impropriety.” (*Jurak v. U.S. Speedskating*).

Discretionary factors may be used as part of selection criteria, but *Viola v. USA Diving*, AAA Case No. 30 190 00828-05 December 9, 2005, makes clear that “[s]electors’ evaluations of athletes on [discretionary] factors must be supported by objective facts to ensure that these factors are applied fairly.”

Findings

Claimant’s primary argument is that U.S. Ski & Snowboard did not correctly apply the Selection Procedures and that “[f]ailure to place Mr. Salwan on the 2026 Winter Olympics team is arbitrary and capricious.” (Claimant Brief at 1). Claimant contends that Mr. Salwan would have been selected as the 4th athlete on the team if the Selection Procedures had been applied objectively.

As discussed in more detail below, Claimant failed to prove by a preponderance of the evidence that Respondent breached its Selection Procedures, applied them inconsistently, or reached a decision that was unreasonable, arbitrary, or capricious.

A. Sequential Application of the Selection Procedures

Claimant did not meet its burden of proving by a preponderance of evidence that U.S. Ski & Snowboard failed to apply the Selection Procedures as written. There was significant and credible evidence that the procedures were applied as written, in the sequence expressly required by the Selection Procedures. As discussed above, first, the Selection Committee nominated Quinn Dehlinger pursuant to Selection Method 1. Second, the Selection Committee applied Selection Method 2 and nominated Chris Lillis based on his podium result. Third, it considered discretionary petitions, including from Claimant, under Selection Method 3, but ultimately declined to nominate an athlete under this method. Fourth, the Selection Committee nominated Connor Curran and Derek Krueger under Selection Method 4 based on the next-highest evaluative-event results. Claimant fell far short of proving by a preponderance of the evidence that Respondent breached its Selection Procedures in applying the Selection Methods or applied them inconsistently, or reached a decision that was unreasonable, arbitrary, or capricious.

B. Application of Selection Methods 1-3 to Claimant

Claimant did not meet its burden of proving by a preponderance of evidence that U.S. Ski & Snowboard breached its Selection Procedures in declining to nominate Claimant under Selection Methods 1-3 or reached a decision that was unreasonable, arbitrary, or capricious. There was significant and credible evidence to support the conclusion that Claimant failed to qualify under Selection Method 1—he was not the qualifying athlete under the FIS Base List; Selection Method 2—he did not achieve a podium result in the evaluative events; and Selection Method 3—his best individual World Cup finish was 10th, well below the top 6 finish expressly included in the definition of a “Medal Capable Athlete.”

The Selection Committee did not act in an arbitrary and capricious manner in determining that discretion under Selection Method 3 should not be used to elevate a lower-ranked athlete over higher-ranked ones. The Committee noted that “all the men had opportunities to go head to head” and that “there is no reason to use discretion to elevate lower ranked men over higher ranked ones.” As Respondent emphasized in its submission and during the hearing, the Selection Committee “consistently adhered to the principle that objective results should govern, and that discretion should not be used to override athletes who objectively outperformed others.” (Respondent Brief at 6). Claimant not only failed to meet its burden, but Respondent persuasively showed that the Selection Committee acted rationally in determining that objective placement results should not be overridden by weak discretionary factors.

C. Jump Scoring

Claimant contends that the Selection Committee should have considered jump scores and average jump scores rather than event placements in applying Selection Methods 3 and 4. This contention is contrary to the plain language of the Selection Procedures, which use event placement, not jump scores, as the relevant metric. In fact, the only reference to jump scoring in

the Selection Procedures appears to be in the context of Aerials Mixed Team Event, not individual event selection. Claimant is therefore not arguing that the Selection Committee failed to apply its own procedures as written, but rather is arguing that the Selection Committee should have applied different procedures that would have benefited Claimant. Such an argument is unavailing and would undercut the very protections that are designed to ensure fair selection processes. Claimant's burden is not to prove whether a different set of selection criteria would have been preferable. Claimant's burden is to prove that the existing criteria were breached (or applied arbitrarily and capriciously). Claimant failed to meet this burden.¹

Conclusion

Claimant has not established by a preponderance of the evidence that U.S. Ski & Snowboard breached its published Selection Procedures, applied them inconsistently, acted arbitrarily or capriciously, acted in bad faith, or violated any applicable law.


Award

Accordingly, the Arbitrator Rules that:

1. Claimant's requested relief is DENIED.
2. The parties shall bear their own attorney's fees and costs associated with this arbitration.
3. The administration fees of New Era and the compensation of the Arbitrator shall be borne by the parties as provided in the relevant arbitration rules.
4. This award shall be in full and final resolution of all claims submitted to this Arbitration. The Arbitrator has considered all of the arguments made by the parties, whether or not they are specifically referenced in this Award. All claims not expressly granted herein are hereby denied.

IT IS SO AWARDED.

Dated: March 13, 2026



Gabe Feldman, Arbitrator

¹ Claimant also advanced additional arguments in his submission and at the hearing. Although not discussed individually here, those arguments have been considered and do not alter the conclusion that Claimant failed to meet his burden of proof.