

**UNITED STATES FENCING ASSOCIATION
GRIEVANCE AND DISCIPLINE COMMITTEE
COMPLAINT and HEARING PROCEDURES**

Adopted February 16, 2023

Amended September 15, 2024

SECTION 1. INTRODUCTION

The following Complaint and Hearing Procedures (“Procedures”) apply to complaints that are filed with the United States Fencing Association (“USFA”) and are within the jurisdiction of the Grievance and Discipline Committee (“Committee”). Any person who becomes a member of USFA or participates in USFA-sanctioned events agrees to be subject to these Complaint and Hearing procedures.

SECTION 2. JURISDICTION

The USFA Grievance and Discipline Committee is created and governed by the USFA Bylaws, and the policies, rules, and practices adopted by USFA. The purpose of these Complaint and Hearing Procedures is to provide a mechanism for adjudicating cases that fall within any of those policies or that allege conduct detrimental to USFA, and to adjudicate the grievances of USFA members. Nothing in these Procedures shall be construed as expanding or limiting the jurisdiction of the Committee.

The Committee shall not have jurisdiction over the following complaints: (a) complaints involving disputes over matters covered by USFA’s Black Card policy; (b) complaints concerning the resolution of disputes arising in the context of traveling teams where such resolution is directed to other personnel under separately stated USFA policies, (c) complaints over which the Referees Commission is given exclusive jurisdiction, and (d) complaints within the description of Section 6 and 7, below. With respect to any matter over which the Referees Commission has non-exclusive jurisdiction, the Manager shall determine which tribunal will adjudicate the Complaint.

SECTION 3. COMPLAINTS

§3.1 Contents. A Complaint alleging a violation of the Ted Stevens Olympic and Amateur Sports Act, USOPC Bylaws, USFA Articles of Incorporation, USFA Bylaws, any USFA rule, regulation, or policy (except as set out below), or any grievance of a USFA member against another member or the USFA itself shall:

§3.1.1 Identify the individual or body filing the Complaint (“Complainant”), with membership number where applicable, and the individual(s) or body(ies) against whom the Complaint is filed (“Respondent”) including, where available, the membership number and any contact information the Complainant has for the Respondent. The USFA or any of the Committees of the Board may act as the Complainant.

§3.1.1.1 A Complaint may be filed anonymously, and information concerning misconduct may be submitted to USFA through other informal channels. In either

event, the Manager in consultation with the Chair of the USFA Board of Directors (“Chair of the Board”) may decide that USFA will become a Complainant.

§3.1.1.2 The USFA Senior Manager of Compliance & Athlete Safety (hereinafter, “Manager”) may request that the Chair of the Board appoint a representative to undertake responsibility for pursuing any Complaint in which USFA serves as a Complainant.

§3.1.2 Set forth a statement in clear and concise language of the conduct or omission that is alleged to constitute a violation or upon which the grievance is based;

§3.1.3 Identify where possible any specific policy or rule that the Complainant alleges has been violated;

§3.1.4 Be signed by the person making the Complaint or, where the Complainant is a minor, by the minor’s parent or legal guardian, who shall attest to its validity, under express affirmation that all factual statements contained in the Complaint are true to the best of the Complainant’s knowledge, information and belief;

§3.1.5 Provide a telephone number and sufficient contact information for the Complainant or the Complainant’s counsel or representative (or, for a minor, the minor’s parent or legal guardian) to permit the exchange of information in written or electronic form (physical address or email);

§3.1.6 State the relief sought, except that the relief specifically requested shall not serve as a limitation on the relief that the Hearing Panel may grant.

§3.1.7 Attach documentation or materials to support initial review of the Complaint. Attachment of information or materials shall not serve as a bar to the Complainant’s subsequent provision of information in accordance with the Hearing Panel’s procedural orders or at the hearing, unless doing so would unfairly disadvantage the Respondent.

§3.1.8 If the Complaint alleges denial of an opportunity to compete in a Protected Competition, the Complaint shall also identify the Protected Competition and any other person(s) whose opportunity to participate may be affected by the Committee’s adjudication.

§3.1.9. With respect to any Complaint alleging the denial of an opportunity to compete in a Protected Competition, USFA shall be named as a Respondent and shall have the right, in its discretion, to defend against that Complaint. In appeals in which Section 13 of the Athlete Handbook applies, the appealing party shall be named as the Complainant and the other party the Respondent. In all other matters, the party filing the initial complaint shall be the Complainant and the other party the Respondent. USFA may substitute as Complainant in any matters brought under these rules at its sole discretion.

§3.2 Filing and Distribution. A Complaint shall be filed online through the USFA Grievance and Discipline Committee Portal. The Committee will supply a copy to the Chair of the Board and the Manager. In the event the Chair of the Board has an actual or perceived conflict of interest the Committee need not supply a copy to the Chair of the Board but shall supply it to an At-Large Director, who does not have an actual or perceived conflict of interest. If the Respondent is the USFA Senior Manager of Compliance & Safety, the Committee will supply a copy to the Chief Executive Officer or other senior executive who is not a Respondent and who does not have an actual or perceived conflict of interest.

§3.2.1 Upon receipt of the Complaint, the USFA Manager, in consultation with the Chair of the Board (or other At-Large Director selected under Section 3.2), shall determine whether USFA will serve as a Complainant. That determination shall not be subject to review. No Complainant shall have the right to have USFA serve as the Complainant or as an additional Complainant in any case.

§3.2.1.1. In the exercise of their discretion, the Chair of the Board (or other At-Large Director selected under Section 3.2) and the Manager shall be guided by consideration (among other factors) of whether the Complaint was filed by an individual acting in an official USFA capacity or whether there is a key organizational interest at stake in the matter.

§3.2.1.2. The Manager may request that the Chair of the Board appoint a representative to undertake responsibility for pursuing any Complaint in which USFA serves as a Complainant.

§3.2.2 The Committee may waive any defect or insufficiency in any Complaint filed hereunder or accept an insufficient Complaint provisionally, conditioned on the Complainant furnishing necessary additional information within the time limits established by the Hearing Panel.

§3.2.3 The Manager shall have the authority to file a Complaint on behalf of USFA even in the absence of a third-person Complainant.

§3.3 With respect to any Complaint on which USFA is a Complainant, the Manager shall have the authority to compromise or settle the Complaint upon terms approved by the Chief Executive Officer and Chair of the Board. With respect to any other Complaint, the Manager may endeavor to mediate the Complaint or may assign a third person to mediate the Complaint.

SECTION 4. COMPLAINT DISTRIBUTION AND APPOINTMENT OF HEARING PANEL

Upon receipt of a Complaint, the Complaint shall be distributed and served as follows:

§4.1 The Manager shall forthwith forward a copy of the Complaint to the Committee Chair.

§4.2 The Committee Chair, or their designee, shall perform an initial review of materials provided with the Complaint to ensure that the Complaint is complete under the provisions of Section 3 and that it is not frivolous, beyond the Committee's jurisdiction, imprudent in light of existing or available collateral proceedings (such as other civil, criminal, or administrative proceedings) or otherwise inappropriate for the Committee's consideration. Any decision by the Committee Chair regarding its exercise of jurisdiction over the Complaint may be undertaken by the Committee itself as well and may be made at any stage of the proceedings. A decision to dismiss under this section may be appealed pursuant to Section 13.

§4.3 The Committee may dismiss a Complaint that fails to comply with the provisions of Section 3 after giving the Complainant reasonable notice of deficiencies and an opportunity to cure them. In the event that the Complainant does not cure the deficiencies within that defined period, the Complainant shall be barred from filing another Complaint arising from the same transaction or event unless the Committee finds special circumstances warranting an additional extension.

§4.4 In the event that the Committee Chair or the Committee dismisses the Complaint under Sections 4.2 or 4.3, they shall state the reasons for dismissal in writing, which writing shall be communicated to the Complainant.

§4.5 If the Complaint is not dismissed upon initial review by the Committee, the Committee shall instruct the Manager to serve the Complaint on the Respondent(s), including notice of the alleged violation or charges and all supporting documents, within a reasonable period after receipt of a sufficient Complaint together with a copy of these Complaint and Hearing Procedures through the Respondent's e-mail address on file with the USFA or, in the absence of same, at the address or email address provided by the Complainant.

§4.6 The Respondent(s) shall respond to the Complaint in writing in accordance with the schedule set by the Committee Chair or designated Panel Chair . When the nature of the Complaint requires expedited procedures, the Committee Chair may impose such deadlines as are reasonable under the circumstances, taking into account the necessity of expedited procedures and the provision of a fair opportunity for the parties to respond to the Complaint and to prepare for any hearing to the extent reasonably possible. The failure to file a written response shall be deemed to constitute a denial of the allegations of the Complaint. The Manager shall serve a copy of the response, if any, on the Complainant at the e-mail address set out in the Complaint.

§4.7 After the initial review has been completed and the Complaint accepted, the Committee Chair shall assign the Complaint to a Hearing Panel of three (3) members, at least one of whom shall be an athlete satisfying the requirements of the USOPC Bylaws and who shall be appointed by the Chair of the USFA Athlete Council. Hearing Panel members may be but need not be members of the Committee and may be but need not be "independent" as that term is defined in the USFA Bylaws. All Hearing Panel members shall be impartial and free of any actual or apparent conflicts of interest in the matter. The Committee Chair shall designate one of the Hearing Panel members to serve as Panel Chair. In selection of the Panel Chair, preference shall be given to individuals with education or experience in the practice of law or arbitration.

§4.8 All Hearing Panel members shall be impartial, disinterested and shall be free of any actual or apparent conflict of interest. Within a reasonable time following appointment to a Hearing Panel, each Hearing Panel member shall expressly confirm that they have no known conflicts or shall disclose any conflicts or potential appearances of impropriety. Upon appointment of the Hearing Panel, and after passage of the time specified in this Section, the Committee Chair shall instruct the Manager to notify the parties of the identity of the Hearing Panel members.

§4.9 In the event any party objects to the composition of the Hearing Panel, the Committee, without the participation of any member designated to serve on the Hearing Panel, shall determine the validity of such challenge. A challenge shall be upheld if the challenged member's service involves an actual conflict or reasonably creates an appearance of a conflict or other impropriety, and any member so removed shall be replaced by the Committee Chair, ensuring that the composition of the Hearing Panel satisfies the requirements set out above.

§4.10 The Committee shall endeavor to maintain a pool of qualified Hearing Panel members approved by the Board of Directors.

§4.11 The deadlines may be accelerated by the Hearing Panel or agreement of parties as necessary.

SECTION 5. SANCTIONS

A Hearing Panel, after conducting such investigation or hearings as they may determine to be necessary, may impose any of the following sanctions or resolutions:

§5.1 Dismiss the Complaint with or without permission to re-file;

§5.2 Censure a party, publicly or privately;

§5.3 Establish a period of probation, with or without conditions;

§5.4 Deny, grant, suspend or restore the eligibility or right to compete or participate of any member of USFA;

§5.5 Issue such interim orders, prohibitory or mandatory in nature, as may be necessary pending a final decision; and

§5.6 Deny, grant, suspend or restore membership in USFA for a definite or indefinite period of time, with or without terms of probation, or expel any member of USFA, including, without limitation, any administrator, athlete, coach, trainer, manager, official, officer, Board Member, spectator, chair or member of any committee or sub-committee;

§5.7 Assess actual costs to the prevailing party; and

§5.8 Assess sanctions in any combination of the foregoing or assess any other remedies, including reasonable fines, deemed appropriate under the circumstances.

SECTION 6. DOPING AND SAFE-SPORT DECISIONS

The Committee shall not have any jurisdiction to adjudicate complaints that fall within the exclusive jurisdiction of the United States Anti-Doping Agency, or the doping rules of FIE, or complaints over which the US Center for Safe Sport has exclusive jurisdiction or has given USFA notice that it is exercising discretionary jurisdiction.

SECTION 7. FIELD OF PLAY DECISIONS

The decision of a referee or other competition official during a competition and within the purview of The Rules of Competition shall not be reviewable through, or the subject of, these Complaint and Hearing Procedures unless the decision is alleged to be the product of fraud, corruption, partiality or other misconduct of the official. For purposes of this Section, the term “official” shall include all individuals designated as officials under The Rules of Competition.

SECTION 8. PRELIMINARY HEARING and TEMPORARY ORDERS

In appropriate cases, the Committee Chair before appointment of the Hearing Panel, and the Panel Chair after such appointment, following an initial investigation and after providing the Respondent an opportunity to be heard, may impose such temporary orders as may be necessary for the good of the sport of Fencing and the protection of USFA or its members. The temporary order may encompass any remedy or order permissible in a final decision. Nothing in this Section shall preclude imposition of temporary orders or interim measures under FenceSafe policies.

SECTION 9. HEARINGS

§9.1 The Panel Chair shall preside over all proceedings before the Hearing Panel. After the Hearing Panel is confirmed under Sections 4.8 and 4.9, the Panel Chair shall consult with the parties after which the Panel Chair shall impose dates for (a) the hearing and for any pre-hearing conferences the Hearing Panel deems necessary, (b) the parties’ exchange of all exhibits to be used as evidence, (c) the parties’ exchange of identification of witnesses, their contact information, and a brief statement as to the subject matter of their testimony, (d) submission of hearing briefs by the parties if desired by the Hearing Panel or the parties, and any other preliminary matters. In the event that both parties waive their right to a hearing, the Hearing Panel may adjudicate the matter on written submissions. Any deadlines established in the preliminary conference shall allow sufficient time for each party to examine evidence so as reasonably to prepare for the hearing.

§9.2 The Hearing Panel may impose such remedial measures as it may deem advisable for the failure of any party to comply with the procedural orders of the Hearing Panel.

§9.3 A hearing before the Hearing Panel may be held in person, telephonically, or through a videoconference service. The hearing may be recorded for the sole purpose of review by the panel members in deliberation or for review during appeal proceedings. The hearing shall be held in real-time and shall provide all parties the opportunity to attend and participate in the entire proceedings (except deliberations by the Hearing Panel) unless the right to a hearing is waived by the parties. Where appropriate and with the consent of the parties, the hearing may be conducted in part through written means and in part by testimony and oral argument, except that the Hearing Panel shall not consider any written or oral evidence that the opposing party has not been given an opportunity to rebut.

§9.4 The Complainant(s), the Respondent(s) and any other person participating in a hearing conducted by a Hearing Panel shall be entitled to be represented by a person of their choice at their own expense. Such representative may, but need not be, an attorney.

§9.5 Judicial rules regarding admissibility of evidence shall not apply to the Hearing Panel, except that the Hearing Panel shall respect all lawful claims of privilege based on Colorado law.

§9.6 Any hearing, or a part thereof, shall be open to members of the Hearing Panel, any attorney advising the Panel Chair, the Complainant(s), the Respondent(s), any other real party in interest, and their representatives. The Hearing Panel shall exclude from the hearing any witnesses except during the witness's testimony unless the witness is also a real party in interest or their representative. The record of the hearing and the Hearing Panel's decision shall be kept confidential by the Hearing Panel, the Committee, USFA and the parties, except for an executive summary and such public sanctions as may be imposed. Notwithstanding the foregoing, the Panel Chair may in the interests of justice and the sport of Fencing remove or limit the requirement of confidentiality as to all or part of the record.

§9.7 In all hearings, the Claimant shall bear the burden of proving any alleged violation by a preponderance of the evidence.

§9.8 The Complainant(s), the Respondent(s) and any other person participating in a hearing conducted by a Hearing Panel shall, at their own cost, have the right to arrange for a transcription of the proceedings. The transcriber shall be subject to any applicable rules of the proceedings and shall not disrupt or interfere with the proceedings. A copy of the transcription shall be provided to all parties involved upon request.

SECTION 10. PRE-HEARING PROCEDURES

The procedures to be followed in connection with all hearings of the Hearing Panel shall be as follows:

§10.1 The Panel Chair shall issue a Preliminary Hearing Order setting out the deadlines established under Section 9.1.

§10.1.1 Absent just cause for delay, the Panel Chair shall endeavor to schedule the hearing within 90 days after the last filing.

§10.2 The Hearing Panel, may, on its own accord or upon request of a party and for good cause, amend any of the dates set out in the Preliminary Hearing Order.

§10.3 No party or party representative shall engage in any ex parte communication with the Panel Chair or the members of the Hearing Panel. All requests for relief shall be made in writing and submitted to the Hearing Panel, with a copy to the opposing party(ies). When a party has designated a representative, all communications to that party shall be through the representative only. In the interest of the privacy of panel members, the Panel Chair may require that all communications to the Hearing Panel be sent to the Panel Chair only. The Panel Chair will then ensure that all communications are disseminated to the panel members.

§10.4 In addition to the items set out in Section 9 above, the Hearing Panel may impose such other procedural orders as it deems necessary to the fair and efficient conduct of proceedings.

§10.5 A Respondent may seek dismissal of a Complaint on any grounds set out for denial of jurisdiction above by filing a motion with the Hearing Panel, except that the filing of a motion shall not stay the running of any other deadlines established hereunder unless ordered by the Hearing Panel. A Claimant shall have seven days to respond to such motion or such additional time as the Hearing Panel may order. The Hearing Panel may deny the motion to dismiss without awaiting a response from the Claimant.

§10.6 Once the Hearing Panel has taken jurisdiction of a matter, the Complainant may withdraw the Complaint only with the Hearing Panel's permission and under such conditions as the Hearing Panel may impose, which may include the payment of any costs.

§10.7 In light of the special nature and timing considerations related to Complaints alleging the denial of an opportunity to compete in a Protected Competition, the Hearing Panel may impose additional or different requirements from those set out herein, including but not limited to shortening any time period hereunder.

SECTION 11. CONDUCT of HEARING

§11.1 Hearings shall be conducted fairly and in an orderly fashion, but without regard for the formalities of traditional courtroom procedures. Any hearing shall be set in a manner that allows each party to participate in person, by teleconference, or by videoconferencing.

§11.2 If any party fails to be available without good cause shown in advance, the hearing may go forward at the duly noticed time and proceed to judgment despite that person's absence. If the

Panel Chair determines that in the interests of justice and the sport of Fencing the hearing cannot proceed without the absent party, the Panel Chair may adjourn the hearing and reschedule it for such time as is necessary for the absent party to be present. Any subsequent absence may be taken into account by the Hearing Panel in reaching its decision, and the Hearing Panel may impose reasonable conditions on the missing party for continuation of the hearing.

§11.3 The hearing shall be conducted in the following manner, and the Hearing Panel may set reasonable time limits for each portion of the hearing consistent with the nature of the hearing and relief sought.

§11.3.1 The Panel Chair shall open the hearing and conduct such preliminary matters as may be necessary. The Hearing Panel may continue any hearing, or recess a hearing that has been commenced, for good cause shown.

§11.3.2 Each party shall have the opportunity to make a brief opening statement.

§11.3.3 The Complainant shall call each of its witnesses for examination, which witnesses shall be sworn upon their oath, substantially as follows: "I do hereby swear or affirm under penalties of perjury that the testimony I give shall be true and complete." In lieu of formal examination, the witnesses may make a statement after being sworn. Upon completion of each witness's examination or statement, the opposing party(ies) or their counsel may cross-examine the witness. The Panel Chair shall have the power to limit the examination of witnesses as may be necessary to avoid the introduction of irrelevant evidence, to protect against harassment or intimidation of any witness, or to avoid repetitive testimony, except that the Panel Chair may not bar the cross-examination of any witness as to relevant matters introduced as part of that witness's direct examination or their statement in lieu of testimony. The Complainant shall then have the opportunity to conduct re-direct examination and the witness shall have the opportunity to make a concluding statement limited to the issues that were raised in cross-examination. No further examination or statements shall be permitted except as the Panel Chair may permit in their discretion. Exhibits may be presented through witnesses, by stipulation or in any other way permitted by the Hearing Panel.

§11.3.4 Following conclusion of the presentation of witnesses or witness statements by the Complainant, the Respondent(s) shall have the opportunity to present witnesses and exhibits in the same manner as stated in Section 11.3.3.

§11.3.5 Following the conclusion of the presentation of evidence by the Respondent(s), the Complainant shall have the opportunity to present rebuttal witnesses and exhibits in the same manner as above to respond to new evidence that was presented by Respondent's witnesses.

§11.3.6 Following conclusion of the Complainant's rebuttal evidence, each side shall be permitted to give closing argument. The Panel Chair shall decide on the time limits for such closing arguments and whether they are to be delivered orally or in writing. The

Complainant may divide closing argument time so as to permit rebuttal of the Respondent's(s') closing argument.

§11.3.7 The Hearing Panel members may question any witness presented by the parties. The Panel Chair shall direct the order of such questioning and any follow-up questions by the parties.

§11.3.8 The Hearing Panel shall issue a written decision and findings of fact and deliver it to the Manager, who shall serve it on the parties within ten business days. The Panel Chair shall complete any hearing information form utilized by USFA.

§11.3.9 No failure to satisfy the timing requirements of any of these Complaint and Hearing Procedures by USFA or by any Hearing Panel shall serve to invalidate any decision or to deprive the Hearing Panel of jurisdiction over the Complaint.

§11.3.10. In the event that the Hearing Panel determines that any Complaint is frivolous, groundless, or vexatious, or if a Complainant fails to appear before at a duly scheduled hearing, the Hearing Panel may impose a charge of up to \$250 against the Complainant for each infraction.

SECTION 12. ANTI-RETALIATION AND INTERFERENCE

§12.1 No person shall engage in any retaliation against any Protected Individual who files a Complaint under these procedures or participates in the defense or prosecution of such a Complaint. For purposes of this policy, "retaliation" means any adverse or discriminatory action, or the threat of an adverse or discriminatory action, including, but not limited to, removal from a training facility, reduced coaching or training, reduced meals or housing, removal from competition, harassment, or abuse carried out against a Protected Individual as a result of any communication, including the filing of a formal Complaint by the Protected Individual or a parent or legal guardian of the Protected Individual relating to an allegation of physical abuse, sexual harassment, or emotional abuse, or otherwise given in connection with any proceeding conducted under these procedures. The phrase "Protected Individual" shall be read to include (but not be limited to) any amateur athlete, coach, trainer, manager, administrator, or official associated with the United States Olympic and Paralympic Committee, any National Governing Body and person who serves as a witness, who provides information in support of any investigation, or in any manner is associated with the investigation or pursuit of prosecution or defense of a Complaint filed hereunder, regardless of whether that person testifies. The violation of this Section shall constitute a violation of a USFA rule and shall be subject to sanctions hereunder.

§12.2 No person shall interfere with proceedings under these procedures by intimidating or otherwise imposing on or attempting to influence parties, witnesses, potential witnesses, Hearing Panel or Committee members, or any person associated with the investigation, pursuit, prosecution or adjudication of a Complaint filed hereunder with the intent of preventing,

changing or limiting their participation in such proceedings, nor shall any person without good and just cause attempt to delay, disrupt or prevent such proceedings. The violation of this Section shall constitute a violation of a USFA rule and shall be subject to sanctions hereunder.

SECTION 13. APPEALS

The decision of the Hearing Panel or the dismissal of a Complaint under Section 4.2 or 4.3 may be appealed to the Board of Directors or, when required by USFA Bylaws or the Ted Stevens Olympic and Amateur Sports Act, to a provider of arbitration and mediation services based in the US and designated by USOPC with the concurrence of the USOPC AAC and the National Governing Bodies' Council. A request for appeal must be filed with the Manager within 15 calendar days of the date the decision of the Hearing Panel is communicated to the appealing party, or the appeal will be considered untimely and will be dismissed with prejudice. The standard on appeal to the Board of Directors shall be the same as the legal standard imposed for the review of decisions of administrative agencies by courts of law under Colorado law. No appellant shall have the right to a hearing de novo before the Board of Directors. For purposes of Section 9 of the USOPC Bylaws, a party shall not be deemed to have exhausted their administrative remedies with respect to an alleged denial (or threat of denial) of an opportunity to compete unless the party has sought relief from the Committee (or been made a party to a Complaint seeking relief from the Committee), and the request for relief has been adjudicated by the Committee.

SECTION 14. CONTACT INFORMATION

These Procedures are administered by USFA's Senior Manager of Compliance & Athlete Safety, whose name and contact information can be found at [insert webpage link].

Certain persons who are involved in any disciplinary procedure may be able to obtain additional information or assistance through the office of the USOPC Ombuds, whose contact information and resources can be accessed at <https://www.teamusa.org/athlete-ombuds>, or at 1-719-866-5000. The Athlete Ombuds office can also be reached through e-mail at Ombudsman@usathlete.org