

**UNITED STATES FENCING ASSOCIATION
REFEREE COMMISSION ETHICS COMMITTEE
COMPLAINT and HEARING PROCEDURES**

SECTION 1. INTRODUCTION

The following Complaint and Hearing Procedures (“Procedures”), in effect as of August 1, 2024, apply to complaints filed with the Referee’s Commission of the United States Fencing Association (“RC”) for disposition by the Referee’s Commission Ethics Committee (“RCEC”). “Manager” as used in these Procedures refers to the USFA Senior Manager of Compliance & Safety (“Manager”) and “days” as used in these Procedures means calendar days (*i.e.*, consecutive days of the week without regard to weekends or holidays).

SECTION 2. JURISDICTION

§2.1 These Procedures provide a mechanism for adjudicating grievances and complaints that arise under any of the policies adopted by the RC. These include, but are not limited to, the Code of Ethics, Referee Workplace Code of Conduct, and Harassment Policy. These Procedures also serve to resolve matters arising out of the USA Fencing Officials Contract, concerning administrative actions by the RC and its subparts, and regarding decisions and actions taken in connection with tournaments and other activities of referees while acting in their position as fencing officials. Except as provided in Sections 6 and 7, the RCEC’s jurisdiction does not extend to alleged violations of USA Fencing’s FenceSafe polices or field of play decisions and applications of the Rules of Competition.

§2.2 Matters within the jurisdiction of the RCEC extend to disputes between referees, between referees and the RC, and to complaints by non-referees against referees or the RC.

§2.3 Matters over which the RCEC has jurisdiction may nonetheless be adjudicated by and under the procedures of another USFA tribunal under the following circumstances:

§2.3.1 With respect to any matter over which the RCEC is initially vested with exclusive jurisdiction or with jurisdiction under §2.3.2, such matter may be referred for adjudication to another USFA tribunal when the RC Chair, RCEC Chair, and Manager determine by a majority of them that due to the nature of the matter it would be better resolved by another body.

§2.3.2 With respect to any matter over which the RCEC has non-exclusive jurisdiction, such matter may be referred for adjudication to another USFA tribunal when the RC Chair, Manager, and Grievance & Discipline Committee Chair determine by a majority of them that due to the nature of the matter it would be better resolved by another body.

SECTION 3. COMPLAINTS

§3.1 Contents. Requests for resolution of a grievance and requests for discipline of a referee are initiated through the filing of a Complaint. Complaints shall:

§3.1.1 Identify the individual or body filing the Complaint (“Complainant”), with membership number where applicable, and state the capacity in which the Complainant is acting (e.g., as a referee, as a competitor, as the RC, etc.) and identify the individual(s) or body against whom the Complaint is filed (“Respondent”) including, where available, the membership number and any contact information the Complainant has for the Respondent. The RC may act as the Complainant and it, its members or its subparts may be named as the Respondent.

§3.1.2 Set forth a statement in clear and concise language of the conduct or omission that is alleged to constitute a violation warranting discipline or upon which the grievance is based, including where applicable information about the time, place and circumstances of such conduct or omission;

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

§3.1.4 Be signed by or on behalf of the person making the Complaint. Where the Complainant is an individual, it shall be signed by that person; where the Complainant is a minor, the Complaint shall be signed by the minor’s parent or legal guardian; where the Complainant is a body, it shall be signed by an authorized representative. The signatory shall attest to the Complaint’s validity, under express affirmation that all factual statements contained in the Complaint are true to the best of the signatory’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. The requested relief 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.

§3.2 Filing and Distribution. Complaints shall be filed online through the Referees’ Commission Ethics Committee portal. The RCEC Chair will supply a copy to the RC Chair and Manager. In the event the RC Chair has an actual or perceived conflict of interest, the RCEC Chair shall supply it to a Vice-Chair of the RC who does not have an actual or perceived conflict of interest. If the Respondent is the Manager, the RCEC will supply a copy to the USFA 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 RCEC Chair shall assign a case number to the matter and all proceedings in the matter shall be under that number. The RCEC Chair, in consultation with the RC Chair (or such other individuals selected under Section 3.2, as the case may be) shall determine whether the RC will serve as a Complainant. That determination shall not be subject to review. No Complainant shall have the right to have the RC serve as the Complainant or as an additional Complainant in any case, such determination being in the sole discretion of the RC.

§3.2.1.1. In the exercise of their discretion, the RCEC Chair and the RC Chair shall be guided by consideration (among other factors) of whether there is a key RC interest at stake in the matter.

§3.2.1.2. The RC Chair may appoint a representative to undertake responsibility for pursuing any Complaint in which the RC serves as a Complainant.

§3.2.2 The RCEC 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 RC Chair shall have the authority to file a Complaint on behalf of the RC even in the absence of a third-person Complainant.

§3.3 Compromise or Mediation. With respect to any Complaint on which the RC is a Complainant, the Manager may, with the consent of the parties, mediate the dispute or appoint a third party as mediator. In such case, the RC Chair shall have the authority to compromise or settle the Complaint upon terms approved by the RC as a whole, acting by majority vote. With respect to any other Complaint, the RCEC Chair may endeavor to mediate the dispute or may assign a third person as mediator. Any individual who serves as a mediator may not serve on the case Hearing Panel if mediation proves unsuccessful.

SECTION 4.

APPOINTMENT OF HEARING PANEL

§4.1 Upon receipt of a Complaint, the RCEC 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 RCEC's jurisdiction, imprudent in light of existing or available collateral proceedings (such as other civil, criminal, or administrative proceedings) or, upon consultation with the RC Chair and the Manager, otherwise inappropriate for the RCEC's consideration or better suited for adjudication by the Grievance & Discipline Committee. Any decision by the RCEC Chair regarding the RCEC's exercise of jurisdiction over the Complaint may be undertaken by the RCEC 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, but any other disposition under this Section 4 is not appealable.

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

§4.3 In the event that the RCEC Chair or the RCEC dismisses the Complaint under Sections 4.1 or 4.2, they shall state the reasons for dismissal in writing, which writing shall be communicated to the Complainant. Referral to the Grievance & Discipline Committee does not require an explanation to the parties, although the RCEC may provide one in its discretion.

§4.4 If the Complaint is not dismissed upon initial review by the RCEC, the RCEC Chair or their designee shall serve the Complaint on the Respondent(s), including notice of the alleged violation or charges and all supporting documents, not more than 14 days 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.

§4.5 The Respondent(s) shall have fourteen days from service of the Complaint to file a written response to the Complaint, if they wish, or such shorter time as the RCEC Chair shall require where the nature of the Complaint requires expedited procedures. When the nature of the Complaint requires expedited procedures, the RCEC 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.

§4.6 After the initial review has been completed and the Complaint accepted, the RCEC Chair shall assign the Complaint to a Hearing Panel of three (3) members. Hearing Panel members may be but need not be members of the RCEC and may be but need not be "independent" as that term is defined in the USFA Bylaws. The RCEC 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.

§4.6.1 Except as provided in Section 4.6.2, if resolution of the Complaint could result in a referee losing eligibility for hire to a USFA sanctioned competition or an international competition, at least one Panel Member shall be an athlete satisfying the requirements of the USOPC Bylaws and who shall be appointed by the Chair of the USFA Athlete Council.

§4.6.2 In cases where the panel would otherwise require an athlete member, that requirement will be waived if both the Complainant and the Respondent so stipulate.

§4.7 All Hearing Panel members shall be impartial and free of any actual or apparent conflicts of interest in the matter. Within seven days of 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 RCEC Chair or their designee shall notify the parties of the identity of the Hearing Panel members and advise them they may object to the composition of the Hearing Panel on substantiated grounds.

§4.8 In the event any party objects to the composition of the Hearing Panel, the RCEC, without the participation of any member designated to serve on the Hearing Panel, shall determine the validity of such challenge. If the RCEC Chair was named to the Hearing Panel, the RC Chair shall lead the RCEC consideration of the 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. Any member so removed shall be replaced by the RCEC Chair, ensuring that the composition of the Hearing Panel satisfies the requirements set out above, provided that if the RCEC Chair was named to the Hearing Panel, the RC Chair shall name the replacement for the successfully challenged member.

§4.9 If any individual involved in the RC complaint and hearing process is disqualified by any actual or apparent conflict of interest, for the purposes of these Complaint and Hearing Procedures, the person chosen to replace the disqualified individual shall stand in the place of the disqualified individual and all references to the disqualified person shall be considered to refer to their replacement.

§4.10 The RCEC, with the assistance of the RC Chair and the Manager, shall endeavor to maintain a pool of qualified Hearing Panel members.

§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 an individual's eligibility to referee for a definite or indefinite period of time, with or without terms of probation, or revoke the license of an individual to serve as a referee;

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

§5.6 Assess actual costs to the prevailing party; and

§5.7 Assess sanctions in any combination of the foregoing or assess any other remedies deemed appropriate under the circumstances, including referral to the Grievance & Discipline Committee for further proceedings affecting the subject individual's membership in USFA or other sanctions outside the jurisdiction of the RCEC, with or without a recommendation as to disposition.

SECTION 6. SAFE-SPORT DECISIONS

The RCEC shall not have any jurisdiction to adjudicate complaints over which the US Center for Safe Sport has exclusive jurisdiction or for which it has given USFA notice that it is exercising discretionary jurisdiction.

SECTION 7. FIELD OF PLAY DECISIONS

The decisions of a referee 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 in violation of the policies and practices of the RC.

SECTION 8. PRELIMINARY HEARING and TEMPORARY ORDERS

In appropriate cases, the RCEC 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 the RC, USFA, or its members. A 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 by other USFA bodies.

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 4.7 and 4.8, the Panel Chair shall conduct a preliminary conference with the parties during which the Hearing Panel 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 written position statements by the parties if desired by the Hearing

Panel or the parties, and any other preliminary matters. In the event 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 shall be held in real-time and shall provide all parties the opportunity to attend and participate in the entire proceedings, except for 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 The hearing 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 RC, and USFA, except for such public sanctions as may be imposed. Notwithstanding the foregoing, the Panel Chair may in the interests of justice and the sport of Fencing may 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 At the request of the Panel Chair, the Manager shall provide the Hearing Panel with an attorney, who may be a USFA volunteer, to advise it on matters of procedure and law.

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

§10.3 No party or party representative shall engage in any communication with the Panel Chair or the members of the Hearing Panel without the knowledge of, and opportunity to be heard by, the other party(ies). 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.

§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.

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 manner 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 and the RC Chair within ten days.

§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 the Hearing Panel determines that any Complaint is frivolous, groundless, or vexatious, or if a Complainant fails to appear at a duly scheduled hearing without justifiable excuse, 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, carried out against a Protected Individual 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 USFA policy. Any person violating the provisions of this Section shall be subject to sanctions hereunder unless the RC Chair, Manager, and Grievance & Discipline Committee Chair determine by a majority of them that due to the nature of the matter it would be better resolved in a Grievance and Disciplinary Committee proceeding.

§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 RCEC 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 an RC policy and shall be subject to sanctions hereunder.

SECTION 13. APPEALS

The final decision of the Hearing Panel or the dismissal of a Complaint under Section 4.1 or 4.2 may be appealed to the RC unless other avenues of appeal are mandated by USFA Bylaws or the Ted Stevens Olympic and Amateur Sports Act. An appeal must be filed with the RCEC within 14 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 RCEC shall promptly notify the RC Chair of the appeal for further handling. No appellant shall have the right

to a hearing de novo before the Referees' Commission. There are no further appeals within USFA of Hearing Panel decisions. A party shall not be deemed to have exhausted their available remedies unless the party has sought relief from the RCEC (or been made a party to a Complaint seeking relief from the RCEC), the request for relief has been adjudicated by the RCEC, and the RCEC decision has been timely appealed to and resolved by the RC.

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 www.usafencing.org/contact-us.

Certain persons who are involved in any disciplinary procedure may be able to obtain additional information or assistance through the office of the Referees' Commission Ombudsman, who can be reached at RCOmbudsman@refereescommission.org.