

## APPENDIX K

### GRIEVANCE PROCEDURES

Amendments to this Appendix K are the responsibility of the USAAS Board of Directors.

#### INTRODUCTION

The USA Artistic Swimming (“USAAS”) Grievance Procedures are afforded to our membership to uphold an environment that is fair and equitable, providing for clarity and consistency in the resolution of grievances. These procedures comply with the [Ted Stevens Olympic and Amateur Sports Act](#) (“Act”), the [Bylaws of the U.S. Olympic & Paralympic Committee](#) (“USOPC”), and the [USOPC’s Compliance Standards for National Governing Bodies](#) (“NGB”).

Retaliation, as defined in the [USAAS Whistleblower and Anti-Retaliation Policy](#) (Appendix S), against an individual who files a grievance or otherwise participates in good faith in the process outlined in these Grievance Procedures is prohibited. This applies to all Protected Individuals before, during, and after the process of resolving a grievance. Retaliatory activities will be considered a violation of the USAAS Whistleblower and Anti-Retaliation Policy (Appendix S) and may lead to serious consequences, up to and including termination of employment or participation.

#### ARTICLE 1

##### 1.01 Types of Grievances:

The USAAS Grievance Procedures support the following types of grievances as defined below:

- A. **Administrative Grievance:** USAAS, or any member of USAAS, may file a grievance pertaining to any matter within the cognizance of USAAS including, but not limited to, any alleged violation of or grievance concerning:
  1. Any provision of the [USAAS Administrative Rules](#);
  2. Any USAAS policy or procedure;
  3. Any USAAS program or service; or
  4. Any provision of the Act or the USOPC Bylaws relating to USAAS’s recognition as an NGB.
- B. **Disciplinary Proceeding:** USAAS, or any member of USAAS, may file a grievance against another member of USAAS, or former member of USAAS, if the action occurred while the individual was a member, regarding any alleged violation of [USAAS Code of Ethics](#) (Appendix P), USAAS Whistleblower and Anti-Retaliation Policy (Appendix S) or any other USAAS rule or policy relating to conduct.
  1. There shall be no time limitation for Disciplinary Proceedings including, but not limited to, allegations of violations of [USAAS Athlete Safety Policy](#) (Appendix Q) or the [U.S. Center SafeSport Code](#).
    - **Exception:** Reporting allegations of Prohibited Conduct as defined in the USAAS Athlete Safety Policy (Appendix Q) should follow the reporting requirements and procedures as outlined in Appendix Q. Allegations of Athlete Safety violations may be reported anonymously and must be reported within twenty-four (24) hours after the participant becomes aware of the facts giving rise to the concern.
- C. **Right to Participate:** Any athlete, coach, trainer, manager, administrator or official may file a grievance pertaining to any alleged denial of, or alleged threat to deny, that

individual's opportunity to participate in a USAAS sanctioned competition, any international competition, if selected by the Corporation or one (1) of its members, or a Protected Competition.

D. **Field of Play:** An athlete may file a grievance related to a competition only if a field of play decision was:

1. Outside the scope of the officials' authority to make; or
2. The product of fraud, corruption, partiality, or other misconduct of the official.

## **1.02 Excluded Grievances:**

These Grievance Procedures exclude the following types of grievances:

- A. **Anti-Doping Violations:** A decision concerning a doping violation adjudicated by the independent anti-doping organization designated by the USOPC to serve as the U.S. National Anti-Doping Organization (currently the United States Anti-Doping Agency, "USADA") shall not be reviewable through, or the subject of, these Grievance Procedures.
- B. **U.S. Center for SafeSport Matters:** A matter or decision under the jurisdiction of the independent safe-sport organization designated by Congress and/or the USOPC (currently the U.S. Center for SafeSport) shall not be reviewable through, or the subject of, these Grievance Procedures. Allegations of emotional, physical and sexual misconduct are subject to the policies and protocols of the USAAS Athlete Safety Policy (Appendix Q) and the U.S. Center for SafeSport.
- C. **Nonpayment of Membership Dues:** A membership lapsed for the nonpayment of dues shall not be reviewable through these Grievance Procedures.

## **ARTICLE 2**

### **2.01 Jurisdiction:**

Jurisdiction over grievances shall be as stated in Article 24 of the USAAS Administrative Rules. Grievance procedures for matters under jurisdiction of the [Local Artistic Swimming Committee](#) ("LASC") or of the [Zone Artistic Swimming Committee](#) ("Zone") are governed by Appendices A and B, respectively.

## **ARTICLE 3**

### **3.01 Procedure to Report Grievances:**

- A. Any grievance filed shall be in writing and signed by the individual or chief executive officer of the group or organization filing the grievance.
- B. **Filing a Grievance:** The written grievance shall be filed via the Notice of Grievance Form (Attachment A), with any supporting evidence and/or documentation attached, with the USAAS Executive Director (ceo@usaartisticswim.org) and USAAS President (president@usaartisticswim.org), by email within five (5) business days after the complaining party becomes aware of the facts giving rise to the grievance. If the allegations are against the USAAS Executive Director ("Executive Director") or USAAS President ("President"), the Notice of Grievance Form shall be submitted directly to the USAAS Ethics Committee Chair (ethics@usaartisticswim.org). The grievance shall set forth the factual allegations in numbered paragraphs, each paragraph containing a single factual allegation.
- C. **Notice of Grievance Form:** The complainant (or the complainant's parent or legal guardian, if a minor) shall file the grievance, unless otherwise specified in this Grievance Procedures Policy, via Attachment A, Notice of Grievance Form. The grievance shall set forth the following in clear and concise language, preferably in numbered paragraphs:
  - Full names, membership information and addresses of the parties (if known);

- The identity, to the extent known by the complainant, of the individual(s) allegedly responsible for the act or omission that is the subject of the grievance;
- Jurisdictional basis of the grievance or the alleged grounds of violation or noncompliance (i.e., the specific rule, regulation, or policy);
- Supporting evidence or documentation forming the basis of the grievance;
- The relief sought; and
- If the grievance needs to be expedited pursuant to Section 3.01 F below.

*Note: USAAS may serve as the 'complainant' in the grievance process.*

D. **Grievances Involving Selection to Participate in a Competition:** Where a grievance is filed involving selection of an individual to participate in a competition, the complainant shall include with the grievance a list of all other individuals, together with their contact information, who may be adversely affected by a decision rendered on the grievance. The appropriate hearing panel, as determined in Section 3.03 D, shall determine which additional individuals must receive notice of the grievance. USAAS shall then be responsible for providing appropriate notice to these individuals. Any individual so notified shall have the option to participate in the proceeding as a party. If an individual is notified of the grievance, then that individual shall be bound by the decision of the appropriate hearing panel, as determined in Section 3.03 D, even if the individual chose not to participate as a party.

E. **Deficiency Dismissal:** A grievance not submitted in accordance with these reporting procedures may be dismissed. If the deficiency(ies) can be rectified, USAAS will provide the complainant with notice of the defect(s) and provide a reasonable period of time to resolve such defect(s). If the complainant fails to resolve the defect(s) within the time period provided, USAAS may dismiss the grievance. USAAS shall provide written notification of grievance dismissal. If dismissed for failure to comply with any of the above requirements, the complainant may re-file a new grievance that resolves any such deficiency(ies).

F. **Expedited Procedures:** Upon the request of a party, and provided that it is necessary to:

- Expedite the proceeding in order to resolve a matter relating to a scheduled competition that compliance with regular procedures would not be likely to produce a sufficiently early decision to do justice to the affected parties; or
- Protect one or more of USAAS's participants,

the USAAS Ethics Committee is authorized to order that the grievance be decided within forty-eight (48) hours of the filing of the grievance. In such a case, the USAAS Ethics Committee is authorized to decide the grievance pursuant to such procedures as are necessary, but fair to the parties involved. In cases expedited to protect USAAS's participants as mentioned above, such procedures may include, but are not limited to, providing for a preliminary hearing pending a full hearing on the allegations.

1. The rules of evidence shall not be strictly enforced; instead, rules of evidence generally accepted in administrative proceedings shall be applicable in any hearing. The real parties in interest shall be given a reasonable opportunity to present relevant oral or written evidence and to cross-examine witnesses. Witnesses appearing at any hearing shall be identified by the parties prior to the hearing. The proceedings may be recorded and a transcript made available to each interested party upon request and payment therefore.

### **3.02 Informal Resolution:**

A. In the event both the Executive Director and President believe the grievance may be able to be resolved through an Informal Resolution process, flexibility will be permitted in achieving a satisfactory outcome provided the following conditions are met and can be demonstrated:

1. All parties voluntarily agree to explore an Informal Resolution;

2. All parties agree to the process of the Informal Resolution;
3. Informal Resolution is resolved within thirty (30) business days from the filing of Attachment A, Notice of Grievance Form;
4. All parties receive written documentation of the Informal Resolution; and
5. All parties acknowledge via email their voluntary agreement to the Informal Resolution.

B. Flexibility is given to all parties before and during the administration of the grievance process to acknowledge their interest in Informal Resolution.

- **Exception:** Informal Resolution shall not be utilized for matters that must be reported to, and/or are under the jurisdiction of, the U.S. Center for SafeSport, USADA, USOPC, law enforcement or any other relevant oversight body.

### **3.03 Grievance Process:**

- A. A grievance is received by the Executive Director and President with clear documentation of the arrival date. Reviews of grievances, throughout the Grievance Process, must be conducted by a disinterested party.
- B. The Executive Director or President ensures the USAAS Ethics Committee has received the grievance for review within twenty-four (24) hours of receipt. Upon review, the USAAS Ethics Committee may:
  1. Determine that the grievance does not merit further action; or
  2. Inform the Executive Director, President and/or USAAS Board of Directors (“Board of Directors”) that the grievance should be referred to another USAAS committee, LASC or Zone Review Board for action; or
  3. Begin an investigation by opening a case file.
- C. When the USAAS Ethics Committee determines that a grievance does not merit further action, the USAAS Ethics Committee advises the Executive Director or President, who is responsible for informing the appropriate parties within five (5) business days.
- D. When the USAAS Ethics Committee refers the grievance to another USAAS committee or a LASC or Zone Review Board, the USAAS Ethics Committee, with the Executive Director, President and/or Board of Directors, will determine which USAAS committee, LASC or Zone will review the grievance. Resolution for such grievances will follow the applicable USAAS committee, LASC or Zone Review Board policies and procedures.
- E. At the time a case file is opened, all involved parties will be notified by email of the grievance allegation(s), any associated documentation or evidence received and potential consequences or remedy requested, if found to be in violation. All involved parties will be given five (5) business days to review and make inquiries.
  1. If an individual chooses to be represented during the grievance process, the name, title and contact information of the representative shall be submitted via email at [ethics@usaartisticswim.org](mailto:ethics@usaartisticswim.org). If an involved party is a minor, the parent(s) or legal guardian(s) will be copied on all correspondence.
- F. Within this five (5) business day period, the responding party may submit a motion to dismiss the grievance. Said motion shall be submitted to the USAAS Ethics Committee via email at [ethics@usaartisticswim.org](mailto:ethics@usaartisticswim.org) and shall include a clear and compelling rationale for this request. Documentation may be submitted to support the motion to dismiss.
- G. Following five (5) business days, the USAAS Ethics Committee will conduct an investigation. As part of the investigatory process, additional parties that are named or closely impacted by the grievance may also be contacted. The Executive Director, in consultation with the President, reserves the right to temporarily suspend a member if the Executive Director and President perceive there is a threat to another member of the organization.

H. The USAAS Ethics Committee will conduct interviews, review relevant documentation, policies and/or evidence until the committee is able to make an informed decision. There is no set timeline to complete the investigative process. However, the USAAS Ethics Committee will handle the matter as expeditiously as possible.

I. Once a complete investigation is conducted, the USAAS Ethics Committee shall submit a formal investigative report and recommendation to the Executive Director, President and Board of Directors.

J. Upon review of the USAAS Ethics Committee's report and recommendation, the Executive Director, President and Board of Directors shall determine the final outcome and decision of the grievance. The decision shall be final in all cases, subject only to appeal by a real party in interest to the National Board of Review pursuant to Article 4 below.

K. The notice of decision shall be emailed to all parties involved, including all persons who were interviewed no later than ten (10) days following the date of the decision.

1. If a sanction is issued, the details of that sanction shall be included in the decision and the person or persons sanctioned will be required to comply. Compliance will be reviewed by the Executive Director until completed and then the case shall be closed. If the sanction was suspension, ineligibility for participation, or revocation of membership in the Corporation:
  - a. The respondent has the right to a hearing before the National Board of Review prior to the Corporation officially declaring the individual:
    - Suspended;
    - Revoked from membership;
    - Limited in/prevented from participating; and/or
  - b. The Board of Directors may reinstate any member's membership eligibility, subject to ratification by no less than two-thirds (2/3) vote of the Board of Directors.
2. If no sanction is issued, the case shall be closed.
3. The same case shall not be reopened for consideration unless new evidence is presented, that the USAAS Ethics Committee believes warrants further investigation.

L. If the grievance is believed to be fraudulent or dishonest, additional steps will be taken by the USAAS Ethics Committee.

M. Pursuant to the USAAS Whistleblower and Anti-Retaliation Policy (Appendix O), if a USAAS employee has retaliated against a Protected Individual, the employee shall be immediately terminated or suspended without pay, as required by Section 220509(c)(2) of the Act.

## ARTICLE 4

### APPEALS TO THE NATIONAL BOARD OF REVIEW

**4.01 Authority of the National Board of Review:** The National Board of Review shall be responsible for conducting any and all appeals made to the Corporation.

**4.02 Composition of the National Board of Review:** The National Board of Review shall be comprised of one (1) Athlete Representative from each Zone, elected by the Athletes Committee, who meets the requirements of Section 7.06 A of the USAAS Code, and such other members as may be appointed by the President, to include at least two (2) additional members from each Zone and, if possible, at least one (1) member with legal experience.

- A. All members of the National Board of Review shall be disinterested and impartial individuals.
- B. Each member of the National Board of Review shall disclose any potential conflicts upon appointment by submitting the [USAAS Conflict of Interest Policy](#) Form (Appendix U) as well as the [USAAS Confidentiality Policy](#) Form (Appendix V) to the USAAS President.
- C. **National Board of Review Panel:** To hear a particular matter, the President shall designate a National Board of Review Panel of three (3) disinterested members, including that number of Athlete Representatives necessary to ensure that at least thirty-three and three tenths percent (33.3%) of the National Board of Review Panel are athletes, to hear and decide the case. The General Counsel or other attorney shall advise the review panel, but shall not have a vote on the panel.

**4.03 Appeals to the National Board of Review:** Any real party in interest who is entitled to appeal a decision of an LASC Review Board, Zone Review Board or Board of Directors, may appeal such action or decision to the National Board of Review by serving a petition for review upon the Executive Director within five (5) business days of the incident or written decision, by email accompanied by a \$50.00 filing fee payable to the Corporation. The fee shall be returned if the petition is upheld, but forfeited if it is rejected or abandoned.

- A. The petition must be in writing, signed by the individual or the chief executive officer of the group or organization making such petition and shall set forth the factual allegations in numbered paragraphs, each paragraph containing a single factual allegation, and shall contain, at a minimum, the following:
  - Full names, membership information and addresses of the parties (if known);
  - Jurisdictional basis of the petition;
  - Efforts made to exhaust available remedies, or if such remedies have not been exhausted, the grounds upon which the petitioner alleges that exhaustion would result in unnecessary delay;
  - The alleged grounds of noncompliance;
  - Supporting evidence or documentation forming the basis of the petition; and
  - The relief sought.
- B. The Executive Director shall send a copy of the petition for review to the respondent, which shall include the potential consequences should it be determined a violation has occurred, by email immediately upon receipt. Within five (5) business days following filing of the petition, the respondent shall acknowledge receipt of the petition and may file a written response to the petition (e.g., request the matter to be dismissed), with the Executive Director by email with a copy served at the same time by email on all parties. The petitioner may within five (5) business days following receipt of a copy of the response file a written rebuttal with the Executive Director by email with a copy served at the same time by email on all parties.
- C. The Executive Director shall see that copies of all filings are sent to the designated members of the National Board of Review Panel by email within five (5) business days of receipt.
- D. After the time for responding to the petition has expired, or after receipt of responses from parties, whichever is sooner, the National Board of Review Panel may decide to dismiss the petition on such grounds as it deems appropriate, including, but not limited to:
  - the petition does not fall within the jurisdiction of the National Board of Review Panel;
  - the petition fails to state a claim upon which relief may be granted;
  - the time limitation period has expired; or
  - the petition is moot.

All parties shall be notified should there be a summary dismissal. There is no appeal from a dismissal by the National Board of Review Panel; however, the petitioner may refile if the deficiency can be resolved.

- E. Any party to the appeal shall be entitled, upon written request, to a hearing before the National Board of Review; otherwise, all evidence may be submitted to the National Board of Review in writing. Such a request for a hearing must be received by the Executive Director by email within fifteen (15) days of the filing of the petition. In the event a hearing is held pursuant to this section, the procedures set forth in Section 4.03 F below, shall apply.
- F. If a hearing is requested and deemed warranted by the National Board of Review Panel, the respondent and petitioner shall both be informed of the pursuit of alleged violations within thirty (30) business days upon the filing of the petition. The hearing notice shall include the following:
  1. **Hearing Date:** The hearing date will provide for a reasonable time between receipt of the petition and the hearing, within which to prepare a defense. The hearing date shall not exceed ninety (90) days after the petition filing;
  2. **National Board of Review Panel members:** Disclosure of the National Board of Review Panel members;
    - a. Notice that the respondent and petitioner have the right to contest a member of the National Board of Review Panel if there is a reasonable and articulable concern regarding impartiality or a conflict of interest as defined by USAAS Conflict of Interest Policy (Appendix U). Such contests should be submitted via email to [ceo@artisticswim.org](mailto:ceo@artisticswim.org). Acknowledgement of the contest and the decision will be provided to all parties via email;
  3. **Representation:** Notice that the parties have the right to have a representative and, if a party elects to have a representative, that the name, title, relationship to the party and the contact information (email and mobile number) be submitted to [ceo@usaartisticswim.org](mailto:ceo@usaartisticswim.org) no later than five (5) business days in advance of the hearing;
  4. **Witnesses:** Notice that the identity of all witnesses must be provided no later than five (5) business days in advance of the hearing; and,
  5. **Evidence:** Notice that the distribution of evidence by each party shall be no later than ten (10) business days in advance of the hearing to provide for a reasonable time to prepare one's position in the matter.
- G. The rules of evidence shall not be strictly enforced; instead, rules of evidence generally accepted in administrative proceedings shall be applicable in the hearing. The real parties in interest shall be given a reasonable opportunity to present relevant oral or written evidence and to cross-examine witnesses. The proceedings may be recorded and a transcript made available to each interested party upon request and payment therefore.
  1. The hearing may be conducted in person or by video conference at a time and place (if applicable) selected by the National Board of Review Panel. The National Board of Review Panel will endeavor to select a time and place that is convenient and equitable to the majority of the persons so as to make it practicable for all parties to attend.
  2. The National Board of Review Panel shall rule on all motions and other matters raised in the proceeding. The National Board of Review Panel shall set such timelines and other rules regarding the proceeding and the conduct of the hearing as it deems necessary.
- H. A final and binding decision shall be recorded and disseminated to the parties within seventy-five (75) days from the date of filing of the petition, and no later than thirty (30) days of the conclusion of the hearing, by a majority of the National Board of Review Panel, based upon the record, as defined in Section 4.03 G above. Decisions of the National Board of Review Panel shall not be reopened for consideration except upon

showing of sufficient cause to the Chair of the National Board of Review Panel. Any motion for reconsideration must be filed within ten (10) days of the date of decision.

**4.04 National Board of Review Decision Appeals:** The decision of the National Board of Review Panel shall be final in all cases, subject only to an individual's rights under the USOPC Bylaws and the Act.

**4.05 Arbitration:**

- A. Arbitration may be sought at any time throughout the Grievance Process.
- B. Per USAAS Code, USAAS agrees to submit to final and binding arbitration in any controversy involving the opportunity of any athlete, coach, trainer, manager, administrator or official to participate in athletic competition in artistic swimming upon demand of the USOPC or any aggrieved athlete, coach, trainer, manager, administrator or official using an established major national provider of arbitration and mediation services based in the United States as designated by the USOPC with the concurrence of the Team USA Athletes' Commission and the USAAS Athletes Committee as required by the Act.

## ARTICLE 5

**5.01 Points of Contact and Resources:**

- A. Individuals in need of further information, guidance and/or the enforcement thereof, in relation to this Appendix K, may contact the following:

<b>USAAS Executive Director</b>	Email: <a href="mailto:ceo@usaartisticswim.org">ceo@usaartisticswim.org</a>
<b>USAAS President</b>	Email: <a href="mailto:president@usaartisticswim.org">president@usaartisticswim.org</a>
<b>USAAS Ethics Committee Chair</b>	Email: <a href="mailto:ethics@usaartisticswim.org">ethics@usaartisticswim.org</a>
- B. In addition, the USOPC Ethics and Compliance team may serve as a secondary resource for questions or concerns regarding this Appendix K. The USOPC Ethics and Compliance team may be contacted at:

**USOPC Integrity Hotline:** (877) 404-9935

**USOPC Integrity Portal:** <https://usopc.ethicspoint.com>

**C. USOPC Athlete Ombuds Assistance:**

The USOPC Athlete Ombuds ("Athlete Ombuds") provides cost-free, independent and confidential advice regarding athlete rights; resolving disputes or grievances; and any sport rule, policy, or process, including USAAS-athlete agreements, codes of conduct or Team selection procedures. The Athlete Ombuds can also help athletes connect with legal counsel or mental health resources, if needed. The Athlete Ombuds may be contacted at:

**Phone:** (719) 866-5000

**Email:** [ombudsman@usathlete.org](mailto:ombudsman@usathlete.org)

**Website:** [www.usathlete.org](http://www.usathlete.org)

**ATTACHMENT A**  
**USA ARTISTIC SWIMMING, INC**  
**NOTICE OF GRIEVANCE FORM**

Pursuant to the USAAS Grievance Procedures (Appendix K), this form must be completed in its entirety to file a formal grievance.

Complainant: \_\_\_\_\_

USAAS Affiliation: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_

Respondent(s): \_\_\_\_\_

USAAS Affiliation: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_

Basis of the Grievance (i.e., policy violation): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Relief Sought:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**No Retaliation:** Retaliation, as defined in the USAAS Whistleblower and Anti-Retaliation Policy (Appendix S), against an individual who files a grievance or otherwise participates in good faith in the process outlined in the USAAS Grievance Procedures is prohibited. This applies to all Protected Individuals before, during, and after the process of resolving a grievance. Retaliatory activities will be considered a violation of the USAAS Whistleblower and Anti-Retaliation Policy (Appendix S) and may lead to serious consequences, up to and including termination of employment or participation.

I am open to resolving this grievance through an Informal Resolution process. I understand all parties would have to agree to the terms of the Informal Resolution process.

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Signature

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Date

Send completed form along with any supporting evidence or documentation  
as attachments via email to both:

Executive Director (ceo@usaartisticswim.org)  
and  
President (president@usaartisticswim.org)