



USA Diving National Board of Review Policy

Effective Date: 09/10/2023

ARTICLE I. BOARD OF REVIEW

1.1. National Board of Review

a. Composition.

- (i) The National Board of Review (the "BOR") shall be comprised of six (6) members appointed pursuant to the Charter of the National Board of Review (the "Charter").
- (ii) Any vacancy shall be filled pursuant to the Charter.
- (iii) The Board of Directors of USA Diving, Inc. may remove any member of the BOR at any time.

b. Jurisdiction.

- (i) The BOR is established for the purpose of hearing and deciding all disciplinary proceedings and other complaints (each a "Complaint") against all members of the Corporation. For the purposes of this Board of Review Policy only, the term "member" or "member of the Corporation" includes: those persons and organizations listed as members in the records of the Corporation; all past members of the Corporation; those who apply for membership in the Corporation; and any person who, though not otherwise listed as a member of the Corporation, has participated in the activities of the Corporation or its member clubs, excluding the employees and contractors of the Corporation who are under the authority of the President of the Corporation. The parents or guardians of minors who are or become members of the Corporation shall also be considered members for the purposes of this Board of Review Policy.
- (ii) The BOR has jurisdiction over all matters asserting a violation of, or a need for enforcement of the Bylaws or the Technical Diving Rulebook (the "Rules") or any policy of USA Diving except (i) as provided elsewhere in this Board of Review Policy or (ii) where the Bylaws give exclusive jurisdiction over a matter to another committee. The BOR shall also have jurisdiction over such disciplinary matters as

may be delegated to the Corporation by the USOPC, World Aquatics, or under the laws of any State or the United States.

(iii) The BOR does not have jurisdiction over a decision on a doping violation adjudicated by the independent antidoping organization designated by the USOPC to conduct drug testing (currently the U.S. Anti-Doping Agency or the World Anti-Doping Agency), except that the BOR has jurisdiction to enforce any sanction imposed by such independent antidoping organization.

(iv) The BOR does not have jurisdiction over (1) any matter under the exclusive jurisdiction of the U.S. Center for SafeSport (the “Center”) or (2) any matter over which the Center exercises discretionary jurisdiction.

(v) The BOR has jurisdiction over a request for review of an adverse background screening (“red light” report).

(vi) The BOR has jurisdiction over any complaint involving the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition in the sport of diving.

(vii) The BOR does not have jurisdiction of any matter determined in a prior arbitration under the USOPC’s bylaws.

(viii) Nonetheless, prior adjudications by the agencies referenced in subsections (iii) and (iv) of this rule, may be considered as evidence in proceedings arising out of the same conduct by the same or other individuals.

(ix) Generally, as hereinafter set forth, the BOR shall have jurisdiction over any member of the Corporation, or any other person participating in any capacity whatsoever in the affairs of the Corporation, who has contravened any of its bylaws, policies, or the Rules, or who has acted in a manner which brings disrepute upon the Corporation.

(x) The jurisdiction of the BOR is to be construed broadly as general jurisdiction so as to allow it administer the orderly resolution of Complaints.

c. Duties.

(i) The BOR shall generally administer and oversee the disciplinary process of the Corporation. The BOR shall be responsible to ensure that all Complaints are heard in a timely, fair and impartial manner by disinterested individuals. The BOR may set additional procedures to effectively administer Complaints filed with the Corporation.

d. Hearing Panels.

(i) After a Complaint is filed, the Chair of the BOR, after consultation with the other BOR members, shall empanel a Hearing Panel in accordance with Section 4 of the Procedures of the USA Diving Board of Review Committee (the “Procedures”) and this Policy.

(ii) A party may challenge the selection of a panel member for cause, and any other party may state his/her position on such a challenge in accordance with Section 4 of the Procedures.

e. Procedures.

(i) Prior to assigning a case to a Hearing Panel, the BOR may review any Complaint filed and may determine that such Complaint:

(1) Fails to state a claim upon which relief may be granted;

(2) States a claim over which the BOR lacks jurisdiction;

(3) Is moot; or

(4) The applicable limitation period expired prior to the filing of the complaint.

(ii) The BOR may provide the complainant with an opportunity to cure deficiencies in the Complaint if the deficiencies appear to be subject to cure. A final decision by the BOR finding that a Complaint is deficient under this section shall result in the dismissal of the Complaint and a refund of any fees paid by the complainant. In the event of dismissal, the respondent shall be informed of the Complaint and provided with a copy of it and the BOR’s decision.

d. Applicability & Interpretation.

(i) This USA Diving National Board of Review Policy (the “Policy”) applies to all Board of Review matters that are filed on or after, or are pending on, the Revision Date set forth above.

(ii) This Policy and the Procedures of the USA Diving Board of Review Committee (the “Procedures”) shall be read together as consistent with each other whenever possible. To the extent that this Policy conflicts with the Procedures, the Procedures control.

ARTICLE II.
MATTERS FOR REVIEW BY THE BOARD OF REVIEW, FILING COMPLAINT

2.1. Who May File.

The Corporation, any member of the Corporation, or any natural person may file a Complaint with the BOR pertaining to matters within the BOR's jurisdiction, including without limitation those matters stated in the sections that follow. For the avoidance of doubt, either the Corporation or an individual complainant (or both) may file a Complaint with the BOR based on a matter referred to the Corporation by the Center.

2.2. Example Matters within the BOR's Jurisdiction

a. Administrative Matters including the Rules and Bylaws.

An alleged violation or grievance of:

- (i) Any provision of the Corporation's Bylaws;
- (ii) Any provision of the Ted Stevens Olympic and Amateur Act (36 U.S.C. Sec. 220501 et seq.) (the "Act") that is not within the Center's or the USOPC's exclusive jurisdiction;
- (iii) Any provision of the Rules.

b. Field-of-Play Decisions.

The final decision of a referee made during competition may not be reviewed under these procedures unless the decision is:

- (i) Outside the authority of the referee; or
- (ii) The product of fraud, corruption, partiality or other misconduct of the referee. For purposes of this section, "referee" includes anyone with discretion to make field-of-play decisions.

c. Personal Conduct Including Code of Conduct Violations.

Violations of the Corporation's Code of Conduct and policies related thereto are disciplinary matters within the jurisdiction of the BOR.

d. Opportunity to Participate.

Any athlete, coach, trainer, manager, administrator or official may file a complaint pertaining to any alleged denial of, or alleged threat to deny, that individual's opportunity to compete in a Corporation sanctioned or international competition including the opportunity to participate in events used to select athletes to participate in international competitions.

2.3. Filing a Complaint.

A complaint shall be submitted as set forth in Section 1 of the Procedures. No person shall intentionally file a complaint with the BOR based upon information known to be false. If the truthfulness or falsity of information is subject to conflicting evidence, it is not "known to be false" as used in this section.

2.4. Notification to Respondent, Reply, and Default.

a. Notification. Respondent parties shall be notified of the Complaint in accordance with Section 3 of the Procedures. The notice will be sent to the Respondent at her/his last known address as on file with the Corporation. The Corporation may, but is not required to also send a copy of the Complaint to any other address known to be used by the Respondent. Delivery shall be accomplished by certified mail, return receipt requested or by any nationally recognized over-night delivery service, or by email if the Respondent's email address is on file with the Corporation, read receipt requested, or by hand delivery to the Respondent. Proof of mailing to Respondent's last known address, postage prepaid shall be deemed proof of delivery and constitute service of the Complaint, whether or not actually received. Delivery shall be deemed complete on the first business day not less than 10 days from the date on which the Corporation effects any of the delivery options specified above, unless proof of an earlier date is clear.

b. Reply. Each respondent may submit a response to the complaint in accordance with Section 3 of the Procedures.

c. Default. If no reply is received within the time specified in the Procedures, then the Hearing Panel may enter default against the Respondent. The entry of a default shall constitute an admission by the Respondent of the facts set forth in the Complaint; however, Respondent shall nonetheless have the right to be heard on the issue of any sanction. For good cause shown, a default may be set aside by the Chair of the BOR and a Respondent permitted to file a Reply any time prior to a decision being rendered by the Hearing Panel.

d. Hearing Date. A hearing shall be held in accordance with Section 7 of the Procedures.

e. Rehearing. Within ten (10) days following a final decision of the Hearing Panel, a Respondent may request a rehearing. The request for a rehearing may not re-argue points already addressed, and shall be based upon new evidence or issues and facts overlooked by the Hearing Panel in its decision. The request for a rehearing shall be decided by the

Hearing Panel. Any request for a rehearing must be in writing, in the English language, and signed by the party submitting it.

2.5. Limitation Periods. Except in (i) the case of Acts of Abusive Misconduct as defined in the Code of Conduct or (ii) any Complaint filed by the Corporation, a Complaint must be filed within 365 days of the alleged violation, grievance, denial or threat to deny. Either a Complaint alleging one or more acts of Abusive Misconduct or any Complaint filed by the Corporation may be filed at any time after the act giving rise to the Complaint. A request for review of an adverse background screening report (a “red light” report) is to be filed within the timeframe stated in Section 1 of the Procedures.

ARTICLE III. HEARING PANELS AND HEARINGS

3.1. Authority.

a. Unless otherwise provided, a Hearing Panel appointed by the BOR has the authority to hear and decide all issues presented by the Complaint, and to render an opinion and decision taking such action as it may determine appropriate, including but not limited to:

- (i) Impose and enforce penalties for any violation of the Rules, policies, regulations (administrative or technical) and Bylaws of the Corporation, up to and including deeming an individual permanently ineligible for membership in the Corporation;
- (ii) Determine the eligibility and right to compete of any athlete, coach, trainer, manager, administrator or official;
- (iii) Vacate, modify, sustain, or reverse any decision or order properly submitted for review, or remand the matter for further action;
- (iv) Reinstate any athlete to amateur status; and
- (v) In the review of an adverse background screening report determine whether the matters giving rise to the adverse report are such that the “red light” be changed to a “green light.”
- (vi) When appropriate, direct the payment or repayment of monies paid by or due to the Corporation or a member and set the terms and conditions of such payment or repayment.

3.2. Penalties.

a. A Hearing Panel may impose penalties upon sustaining a Complaint, including but not necessarily limited to the following:

- (i) Private censure;

- (ii) Public reprimand;
- (iii) Probation (with such conditions as the Hearing Panel may reasonably determine);
- (iv) Suspension of membership or specific privileges of membership for a definite or indefinite time;
- (v) Fine;
- (vi) Expulsion with right to apply for reinstatement; and
- (vii) Permanent ban.

b. When a Hearing Panel imposes a penalty with executory provisions (i.e., probation, suspension, etc.), the Hearing Panel shall be deemed to have continuing authority to enforce the executory provisions and, upon a respondent's failure to fulfill same, to impose such other penalties as the Hearing Panel may determine to be proper.

3.3. Hearing Procedures.

a. The Hearing Panel Chair shall rule on all motions and other matters raised in the proceeding. The Hearing Panel Chair may dismiss a Complaint on its merits without hearing on an appropriate basis, including, but not limited to:

- (i) If the allegations fail to state a claim upon which relief may be granted;
- (ii) The matter is moot;
- (iii) The Complainant has failed to exhaust remedies;
- (iv) The limitation period expired prior to the filing of the Complaint.

b. If the Complaint is not dismissed, the Hearing Panel shall hold a hearing on the Complaint. The Hearing Panel shall set such times and other rules regarding the proceeding and the conduct of the hearing as it deems necessary or desirable, provided that such times and other rules must not conflict with the Bylaws, this Policy, or the Procedures. The hearing shall be informal, except that testimony shall be taken under this oath: "*I swear or affirm that the statements I make shall be true and correct.*"

c. The hearing may be conducted by teleconference, video conference, or at the discretion of the Hearing Panel Chair, in person. At a hearing held in person, one or more members of the Hearing Panel may nonetheless appear by telephone or video conference at their individual option. Each party shall have the right to appear personally or through a legal representative. All parties shall be given a reasonable opportunity to present and examine evidence, cross-examine witnesses and to present argument. Members of the Hearing Panel shall have the right to question witnesses or the parties to the proceedings

at any time. All hearings shall be recorded by the Hearing Panel, and separate or private recordings are prohibited.

d. The Hearing Panel's decision will be based upon a preponderance of the evidence standard.

e. Evidence.

(i) Judicial rules regarding admissibility of evidence shall not apply to a hearing before the BOR or a Hearing Panel. The parties may offer relevant and material evidence and must produce any evidence the Hearing Panel Chair decides is necessary to understand and decide the dispute. All evidence should be taken in the presence (in person, by telephone, or by video conference) of the Hearing Panel Chair and all of the parties, unless any of the parties is absent, in default, or has waived the right to be present.

(ii) The Hearing Panel Chair shall determine what evidence will be admitted, what evidence is relevant, and what evidence is material to the case. The Hearing Panel Chair may also exclude evidence that the Hearing Panel Chair decides is cumulative, not relevant, improperly prejudicial, or otherwise inadmissible.

(iii) The Hearing Panel Chair shall consider applicable principles of legal privilege, such as those that involve the confidentiality of communications between a lawyer and a client. A person participating in a hearing may choose not to give testimony under a claim of privilege against self-incrimination only to the extent such privilege may apply under the law any state or the federal government. The Hearing Panel may give such weight to the claim as the Panel deems appropriate. Other claims of privilege, however, should not generally be entertained except in extraordinary circumstances.

(iv) The Hearing Panel Chair may receive, and the Hearing Panel may consider, the evidence of witnesses by declaration or affidavit rather than in-person testimony but will give this evidence only such credence as the Hearing Panel decides is appropriate. The Hearing Panel Chair will consider any objection to such evidence made by the opposing party.

(v) The Hearing Panel Chair may receive, and the Hearing Panel may consider, as evidence and take notice of the adjudications of courts, arbitrators or other competent organizations concerning matters at issue. The Chair may also receive evidence and take notice of investigative reports made by competent organizations prepared in the ordinary course of their business regarding such matters.

(vi) If the parties agree, or the Hearing Panel Chair decides, that documents or other evidence need to be submitted to the Hearing Panel Chair after the hearing, those documents or other evidence will be filed with the Hearing Panel Chair. All parties will be given the opportunity to review and respond to these documents or other evidence.

3.4. Complaints Involving Selection to Participate in Competition.

- a. When a complaint involves selection of an individual to participate in a competition, the complainant shall submit with the complaint a list of all other individuals, with their contact information, who might be adversely affected by a decision. The adverse party to the complaint must also submit a list of individuals, with their contact information, that might be adversely affected by a decision rendered on the complaint.
- b. The Hearing Panel Chair shall determine who must receive notice of the complaint and the service of the complaint must provide appropriate notice to those individuals.
- c. Any individual so notified may participate in the proceedings as a party. Individuals notified of the complaint are bound by the decision of the Hearing Panel even though they chose not to participate.

3.5. Decision.

The decision of a Hearing Panel shall be determined by a majority of the Hearing Panel in accordance with Section 8 of the Procedures.

3.6. Confidentiality.

- a. All Hearings conducted before the BOR, a Hearing Panel, or the Board of Directors shall be closed to the public.
- b. All proceedings before the BOR or arbitrator (when authorized) shall be and remain confidential except:
 - (i) Information that is necessary to disclose in the course of an investigation or hearing to witnesses, parties, counsel and other persons directly involved in the proceedings;
 - (ii) Information disclosed pursuant to subpoena or court order;
 - (iii) Information disclosed to complaining parties or responding parties;
 - (iv) Information disclosed by the Corporation in response to disclosures by other parties or witnesses in the proceeding; and
 - (v) Information that the Corporation is required to disclose as part of any audit or governmental (including the USOPC's and the Center's) reporting requirements.
- c. The Corporation may also disclose information to a member club when an employee or volunteer of such club has been alleged in a Complaint to have violated the Code of Conduct or other policy of USA Diving. All members of the Corporation acknowledge and agree that the Corporation and its agents, servants, employees and

members have an absolute privilege to communicate information to our members and clubs relating to disciplinary matters or conduct that may affect such members or clubs.

d. The name of the responding party, date of determination, disposition of a Complaint and the Code section violated, if any, may be published by the Corporation.

e. The Corporation shall not be responsible for any release of confidential information by parties, witnesses or others who may possess or disseminate such information.