

**PROCEDURES OF THE
USA DIVING BOARD OF REVIEW COMMITTEE**

Effective Date: 09/10/2023

1. Filing of a Complaint.

- a. A complaint alleging a violation of a USA Diving policy, the USA Diving bylaws, the opportunity to participate, the United States Olympic and Paralympic Committee (“USOPC”) bylaws, or the Ted Stevens Olympic and Amateur Sports Act (the “Act”) shall be filed with the President of USA Diving, Inc. and the Chair of Board of Directors.
- b. A complaint must be in writing, preferably typed, on 8.5" by 11" paper.
- c. The complaint must state the complainant's name, street address, mailing address if different from the street address, telephone number and e-mail address. The complaint must state the name, street address, mailing address, if different from the street address, telephone number and e-mail address of each person or entity against whom the complaint is made. Failure to provide the required information regarding each respondent may result in dismissal of the complaint. The complainant may attach documents or other evidence to the complaint.
- d. The complaint must set forth in reasonable detail the nature of the complaint including all applicable facts and the section(s) of the USA Diving Bylaws and policies that the complainant believes are applicable. The complainant shall also set forth the relief the complainant requests be granted by the Board of Review.
- e. In the case of a complaint based on an adverse background screening determination, a written request for review must be submitted to the President and Chair of the Board of Directors in writing within twenty (20) days of receipt of notice of an adverse report (or a shorter time period as circumstances warrant). The scope of the review shall be limited to two issues:
 - i. Determining whether the applicant is indeed the individual named in the events comprising the negative report.
 - ii. Determining whether the negative events are accurately reported.
- f. The complaint must be accompanied by a check or money order payable to USA Diving in the amount of \$250.00 if the complainant is an individual or \$500.00 if the complainant is an entity. A complaint submitted by USA Diving requires no fee. If the complainant believes that payment of the filing fee would create a financial hardship, the complainant may, in a separate writing submitted with the complaint request that the Board of Review waive or reduce the filing fee.

- g. The complaint accompanied by the appropriate fee is to be mailed or sent by courier to:

Chair of the Board of Directors and President
USA Diving, Inc.
Attention: Board of Review
9801 Fall Creek Road #412
Indianapolis, IN 46256

All responses or other written filings to be filed with the Board of Review or the chair of a hearing panel are to be sent to the President and Chair of the Board of Directors at above address unless otherwise directed by the Board of Review or the chair of the hearing panel.

- h. Retaliation of any kind against a person who files a complaint or otherwise participates in good faith in the process outlined in these procedures is prohibited. Any such retaliation is a separate basis for a complaint and disciplinary action.
- i. USA Diving has the right to intervene as a party in any proceeding before the Board of Review.

2. Receipt of Complaint

- a. The President or their designee will receive the complaint. The complaint shall be notated with the date and time of receipt, and initials of the person receiving the complaint.
- b. The President or their designee will immediately send an acknowledgment of receipt of the complaint to the complainant noting the date and time the complaint was received by USA Diving.
- c. The President or their designee will immediately forward a copy of the complaint to the Chair of the Board of Review.

3. Notification of Respondent Parties.

- a. The Chair of the Board of Review, or their designee, will, absent just cause, within five (5) business days of the Chair's receipt of the complaint notify each respondent party named in the complaint.
- b. The notification to the respondent parties will include:
 - i. A copy of the complaint with any attachments
 - ii. A statement that a response from each respondent will be due to the Board of Review within twenty (20) days of the date of the notice.

- iii. A statement that the respondent must include in the response the name and address of any other person or entity not named in the complaint who may adversely affected by the complaint.
- iv. A copy of these procedures
- c. In the event that the complaint is accompanied by a request for waiver of the filing fee, the Chair may postpone notice to the respondents until the Board of Review has ruled on the request. In the event of the denial of the request or a reduction of the fee then the notification to the respondents will not be required until three (3) business days after receipt of the fee determined by the Board of Review.
- d. Where the complaint deals with an action of a board or a committee of USA Diving, the chair of the board or committee is deemed to be a necessary party to the proceedings in his or her official capacity only and will be given notice and an opportunity to respond on behalf of the board or committee.

4. Selection of the Hearing Panel

- a. Within ten (10) days after the receipt of a response to the complaint, the Chair of the Board of Review will appoint the hearing panel and its chair. The panel will be comprised of three (3) disinterested and impartial individuals, at least one (1) of whom will be an athlete who satisfies the USOPC's criteria for athlete representatives. The chair of the hearing panel shall be an individual with a legal background (e.g., lawyer, judge, or similar background). If an active coach member of USA Diving is the respondent, then at least one (1) member of the hearing panel will be a coach member in good standing.
- b. All members of the hearing panel will be selected by the Chair of the Board of Review. Whenever reasonably possible, the Chair shall select the members of the hearing panel from among a group of pre-qualified individuals approved by the Board of Directors at least annually (the "Hearing Panel Pool"). Individuals who are part of the Hearing Panel Pool will undergo training at least annually for their participation in hearing panels. The Hearing Panel Pool will include athlete representatives who are approved by the USA Diving Athlete Advisory Council.
- c. As soon as practical after selection, the panel will be provided with copies of all documents submitted in connection with the matter, including without limitation the complaint and any response(s).
- d. At least fourteen (14) days before the hearing, the Chair of the Board of Review or his designee will disclose the names of the hearing panel members to the parties. The parties and their representatives may communicate with the hearing panel only through the chair of the hearing panel. They may not directly contact other members of the hearing panel.
- e. Any actual or potential conflicts of interest involving the members of the hearing panel will be addressed in conformance with USA Diving's Conflict of Interest

Policy. If every member of the Hearing Panel Pool has a conflict of interest with respect to a particular matter that prevents them from serving on the hearing panel for that matter, then the Board of Review shall appoint two (2) disinterested individuals to serve on the hearing panel, and the USA Diving Athletes Advisory Council will appoint one (1) qualified athlete to serve on the panel.

- f. Any vacancy in the hearing panel shall be filled by the same process used to appoint the hearing panel member who created the vacancy.

5. Preliminary Matters

- a. After receipt of the response from all of the respondents, the hearing panel will make a determination if additional parties are to be added to the proceedings and give notice to such parties providing them with an opportunity to respond.
- b. After receipt of responses from all persons deemed necessary to the proceedings, the panel may determine to dismiss the complaint on such grounds as it deems appropriate, including, but not limited to, the complaint fails to state a claim upon which relief may be granted, the limitation period has expired, the complaint is moot, the panel is without jurisdiction to hear the complaint, or the panel is without authority to grant the requested relief.
- c. All responses will be provided by the hearing panel to the complainant.

6. Request for Information & Discovery

- a. The Board of Review shall have access to all available information necessary or desirable to render its decision. The failure of any party to provide information requested by the Board of Review shall be cause for, in the case of the complainant, the dismissal of the complaint or, in the case of a respondent, an adverse determination. For the avoidance of doubt, nothing in these procedures requires a party to disclose information protected by a legal privilege, such as the attorney-client privilege.
- b. Upon motion of a party and for good cause shown, the Hearing Panel Chair, in the Chair's sole and absolute discretion, may permit a narrowly drawn request for production of documents to the other party. "Document" includes printed and hand written documents, emails, electronic texts, sound recordings, video recordings, photographs and the like. The Chair will have discretion to limit the number and breadth of any such permitted request. Interrogatories and depositions are not allowed.

7. The Hearing.

- a. The chair of the hearing panel will give not less than ten (10) days' notice to all parties of the hearing date. Such notice may be given by electronic mail to the email address provided by a party. Absent just cause, a hearing will occur within 90 days after the complainant files the complaint.

- b. A party may be represented by counsel provided that a party desiring to be represented by counsel gives notice of such representation to the chair of the hearing panel and to each of the other parties at least five (5) days prior to the hearing including the name of the counsel, the counsel's address, phone number, fax number and e-mail address.
- c. At least five (5) days before the hearing, a party must disclose to the hearing panel and all other parties (i) the names of any witnesses who the party may call at the hearing and (ii) all evidence that the party may introduce during the hearing.
- d. The rules of evidence generally do not apply to proceedings before the hearing panel. If a party believes that proffered evidence should not be admitted by the panel, then the panel will decide that party's objection, taking into account all relevant information including the probative value of the proffered evidence.
- e. The hearing may be conducted in person at a place and time selected by the chair of the hearing panel. The chair will endeavor to select a place and time that is convenient and equitable to the majority of the persons involved. However, the decision of the chair as to the place and time of the hearing is final.
- f. The hearing may be conducted by conference telephone call or video conference wherein all persons participating in the hearing may hear and be heard.

8. Decision of the Hearing Panel

- a. The hearing panel will make its decision within fifteen (15) days of the end of the hearing. The decision will be made based on the preponderance of the evidence standard (i.e., more likely than not).
- b. The written decision of the panel will be prepared by the chair and submitted with the chair's signature within thirty days of the decision being rendered by the hearing panel.
- c. The hearing panel may grant any relief set forth in USA Diving's Code of Conduct.

9. Retention of Records.

- a. Records of the complaint and all documents that become part of the record will be retained by the Board of Review at the National Office of USA Diving for a period of three years after the decision of the hearing panel is rendered. At the end of three years the records, except for the written decision, will be destroyed. The records covered by this section may be maintained electronically.

10. Expedited Hearing.

- a. When exigent circumstances require, the Board of Review or a hearing panel may hear and decide a complaint within 48 hours.

- b. In such case the complainant may file a complaint in such manner as will bring the matter immediately to the attention of the Board of Review.
- c. The Board of Review may hear such matter directly or appoint a hearing panel, whichever will aid in the expeditious review of the complaint.
- d. The Board of Review may alter these procedures to insure the expeditious review and fairness to all parties.
- e. The hearing panel may render either an oral or summary written decision, either of which is to be followed within thirty days by a full written decision.

11. Appeals.

- a. A party who is aggrieved by a decision of a hearing panel may appeal that decision through arbitration as allowed by the USOPC's bylaws and the Act.

12. Interpretation.

- a. These procedures and the USA Diving National Board of Review Policy (the "Policy") shall be read together as consistent with each other whenever possible. To the extent that these procedures conflict with the Policy, these procedures control.
- b. These procedures apply to all Board of Review matters that are filed on or after, or are pending on, the Revision Date set forth above.