



## USBA COMPLAINT AND GRIEVANCE PROCEDURE

EFFECTIVE DATE: Dec. 17, 2024

### Section 1. Designation of Complaints.

Complaints and Grievance (as defined below) may be filed by USBA or with USBA under Chapters 27, 28, 30 and 31 of the USBA Bylaws and as set forth in this procedure.

- a. Grievances: A “Grievance” is a filing a by a member against the USBA. There are two types of Grievances:
  - (i) A Grievance by a member against the USBA which alleges the denial by the USBA of the right of a member to an opportunity to participate in any sanctioned USBA event or “protected competition” such as the Olympic Games, a World Championship competition or such other “protected competition” as defined by the USOPC in its By-laws (hereinafter, an “Opportunity to Participate” Grievance); and
  - (ii) A Grievance by a member against the USBA which alleges the failure of the USBA to comply with a requirement of the Sports Act (other than an “Opportunity to Participate” Grievance); an applicable USOPC By-law or other requirement of the USOPC imposed on the USBA as the National Governing Body for biathlon in the United States; a USBA Bylaw or duly adopted rule or regulation affecting members (excepting and excluding racing rules and regulations); and/or any other matter within the cognizance of USBA affecting members.
- b. Complaints. A “Complaint” is a filing against a member of the USBA. There are two types of Complaints:
  - (i) A Complaint by the USBA against a member alleging a violation of the USBA’s Bylaw(s), Code of Conduct or Code of Ethics or Policy Against Conflict of Interests, Safe Sport Policy and/or any rule or regulation duly adopted by the USBA (excepting and excluding racing rules and regulations), pertaining to any other matter within the cognizance of the USBA regarding the conduct of its members.
  - (ii) A Complaint may also be filed by a member against another member of the USBA, alleging a violation of the USBA’s Bylaw(s), Code of Conduct, Code of Ethics or Policy Against Conflicts of Interest, Safe Sport Policy and/or any

other rule or regulation duly adopted by the USBA (excepting and excluding racing rules and regulations) pertaining to any other matter within the cognizance of the USBA regarding the conduct of its members.

## **Section 2. Filing a Complaint.**

Any current member, current or former athlete member, or USBA (the "Complainant") who believes themselves/itself to be aggrieved by any action of USBA or by one of its members, may file a Complaint or Grievance with USBA. If the Complainant is a minor, the Complaint or Grievance may be initiated by such minor's parent or legal guardian. To be considered for resolution through these procedures, the Complaint must:

- (a) Be submitted in writing to the CEO and Chair of the Complaint and Grievance Committee at USBA's principal place of business at 2002 Soldier Hollow Ln. PO Box 537 Midway, UT 84049
- (b) Include the full name and identifying membership information of the Complainant;
- (c) Be signed by the Complainant (and the signature of their parent or legal guardian if they are under eighteen (18) years of age); and
- (d) Include a short and plain statement of the facts giving rise to the Complaint, including the action at issue, the Bylaws or official written policies or procedures adopted by the Board which are alleged to have been violated by the action, the parties involved in the action, the harm to the Complainant as a result of such action, and the relief sought. The Complaint may include supporting evidence and documentation to support the allegation.

A Complaint that is not filed in accordance with this Section shall render the filing ineffective.

## **Section 3. Filing Fee.**

An Administrative Complaint which is filed by a Complainant other than an athlete or USBA shall be accompanied with a \*\$100 filing fee. \*A complainant may request a waiver of the filing fee by emailing [info@usbiathlon.org](mailto:info@usbiathlon.org). There are no filing fees for Opportunity to Compete Complaints, Misconduct Complaints or Safe Sport Complaints.

## **Section 4. Time Bar/Statute of Limitations.**

Any Complaint or Grievance filed under this Procedure must be filed within one hundred eighty (180) days of the alleged denial of an opportunity to compete, or alleged violation of a provision of the Sports Act, applicable USOPC or USBA Bylaw, Code of Conduct, Code of Ethics, Policy Against Conflicts of Interest and/or applicable non-racing rule or regulation. The foregoing shall not apply to a Safe Sport Policy Grievance or Complaint, which are not subject to statutes of limitation.

## **Section 5. Processing the Complaint.**

- (a) Upon receipt of a Complaint, the CEO and/or Chair of the Complaint and Grievance Committee shall immediately forward the Complaint to the President of the Board.
- (b) The Complaint and Grievance Committee shall send to the Complainant a notice acknowledging the receipt of the Complaint (the "Notice to Complainant"). The Notice to Complainant shall include a copy of these procedures.
- (c) The Complaint and Grievance Committee shall send to any individual and organization whose conduct is the subject of the Complaint (a "Respondent") a notice of the alleged violation of the Complaint and a copy of the Complaint (including any supporting documentation and remedy requested if the allegations are found to be true) (collectively, the "Notice to Respondent") within a reasonable time after receipt by the Complaint and Grievance Committee not to exceed fourteen (14) business days, without just cause for delay. No Notice to Respondent need be sent when the only Respondent is USBA. The Notice to Respondent shall include: (i) An invitation to respond in writing to the Complaint (which will be shared with the Complainant), including reasons why the matter should not be taken on by the Complaint and Grievance Committee, or a reasonable time for the Respondent to prepare a defense; and (ii) A copy of these procedures. The Committee will also send the Complainant any response in writing provided by the Respondent.
- (d) Within fourteen (14) business days after receipt of the Complaint the Complaint and Grievance Committee will determine: (i) whether the Complaint complies with the requirements specified in Section 1.2 and 1.3; and (ii) whether the Complaint is time barred pursuant to Section 1.4. If they determine that the Complaint does not satisfy the criteria specified herein, the chair of the Complaint and Grievance Committee shall so advise the Complainant, and the Complaint shall be dismissed, and no further processing of the Complaint shall be required pursuant to this policy.
- (e) If Section 1.5(d)(i) and (ii) are met, the chair of the Complaint and Grievance Committee will then appoint at least three (3) unbiased, impartial, and disinterested individuals to serve as the hearing panel that will hear the matter (the "Hearing Panel"). These appointments shall be subject to the following:
- (i) The chair of the Complaint and Grievance Committee may appoint themselves or any other member of the Complaint and Grievance Committee to the Hearing Panel.
- (1) The appointment of the Hearing Panel will include the designation of a chair.
  - (2) The Hearing Panel shall have at least thirty-three percent (33.33 %) athlete representation. All athlete members of the Hearing Panel must meet the standards specified for an athlete representative to a board of directors of a National Governing Body or a "Designated Committee," as that term is defined in the Bylaws

of the USOPC.

- (3) The chair of the Complaint and Grievance Committee is responsible for confirming the availability of each appointee to serve on the Hearing Panel.
- (4) The chair of the Complaint and Grievance Committee shall disclose the identity of the Hearing Panel members to the Complainant and Adverse Part(ies).
- (5) All Hearing Panel members should immediately disclose any conflict that they have (and that may arise during the process).
- (6) In the event any party or Hearing Panel member raises a conflict of interest, the chair of the Hearing Panel will consider the issue and replace the member if necessary.

#### **Section 6. Attempt to Resolve Grievance or Complaint by Informal Means.**

The Chief Executive Officer, or his/her designee, shall attempt to resolve the grievance or complaint through informal means. Such attempts to settle the matter, however, shall not, in any event, suspend or otherwise delay the prompt referral of the Complaint or Grievance to the Complaint and Grievance Committee for resolution by a Hearing Panel.

#### **Section 7. Decisions Made at Competitions/Field of Play Decisions.**

If the incident which is the subject of the Complaint occurs at an event or competition sanctioned by USBA, and the subject matter of the Complaint could have been the subject of protest procedures described in any applicable governing rules and policies, then those protest procedures must be exhausted prior to the filing of a Complaint. The failure to exhaust those protest procedures precludes the processing of a Complaint pursuant to this policy. Furthermore, the final decision of an official during a competition regarding a field of play decision (a matter set forth in the rules of the competition to be within the discretion of the official) shall not be reviewable through these procedures for, or the subject of, an Administrative Complaint or an Opportunity to Participate Complaint unless the decision is: (i) outside the authority of the official to make, or (ii) the product of fraud, corruption, partiality or other misconduct of the official. For purposes of this Section, the term "official" shall include any judge or other individual with discretion to make field of play decisions.

#### **Section 8. Complaints Involving an Opportunity to Participate in a Competition.**

With respect to an Opportunity to Participate Complaint, the Complainant shall include with the Complaint a list of all other individuals, together with their contact information, that may be adversely affected by a decision rendered upon the Complaint. The Hearing Panel shall determine which additional individuals should receive notice of the Complaint and shall provide

appropriate notice to these individuals. Any individual so notified then shall have the right to participate in the proceeding as a party. If an individual is notified of the Complaint, then that individual shall be bound by the decision of the Hearing Panel even though the individual chose not to participate as a party.

### **Section 9. Conduct of the Hearing.**

(a) The chair of the Hearing Panel will select the time and place for the hearing so as to have the hearing occur at the earliest convenient date for all parties not to exceed ninety (90) days after the last filing with USBA, without just cause for delay. The chair may choose to conduct the hearing by conference call or other similar electronic means.

(b) The chair will communicate the information about the hearing schedule along with the identity of the other members of the Hearing Panel to the parties.

(c) Not less than fifteen (15) days prior to the hearing, the chair of the Hearing Panel shall cause to be sent to the parties a written copy of the procedures to be followed at the hearing. Those procedures shall include the opportunity for each party to be represented by counsel, to present and examine oral or written evidence, to cross-examine witnesses and to present such factual or legal claims and argument as desired, unless such exhibits pertain solely to possible impeachment matters, and will otherwise follow the considerations of “due process,” set forth on Exhibit A, attached hereto. The Hearing Panel shall set such timelines and other rules regarding the proceeding and the conduct of the hearing as it deems necessary. Either upon its own initiative or at the request of a party, the Hearing Panel may direct the production of documents and other information within a reasonable time to prepare one’s position. Further, the Hearing Panel will require that the parties (i) identify any witnesses the parties intend to call at the hearing and (ii) exchange copies of all exhibits the parties intend to submit at the hearing. The Hearing Panel shall set due dates for the exchange of such information. The Hearing Panel is authorized to resolve any dispute concerning the exchange of information. No party and no one acting on behalf of any party shall communicate ex parte with a Hearing Panel member. The hearing shall be informal, except that testimony shall be taken under oath. Members of the Hearing Panel shall have the right to question witnesses or the parties to the proceeding at any time. Any party may have a record made of the hearing at its expense. A court reporter may be present at the hearing at the request of a party. The court reporter shall be paid for by the party requesting the court reporter, or if mutually agreed, the cost may be equally divided. Any transcript shall be paid for by the party requesting the transcript.

(d) All procedural and evidentiary decisions shall be made by the Hearing Panel. The rules of evidence shall not be strictly enforced; instead, the rules of evidence generally accepted in administrative proceedings shall be applicable. The Hearing Panel shall determine the admissibility, relevance and materiality of the evidence offered and may exclude evidence deemed by the Hearing Panel to be inadmissible, cumulative, or irrelevant.

(e) The Hearing Panel shall be responsible for determining: (i) whether the underlying facts and circumstances referenced in the Complaint give rise to an issue that is appropriate or

inappropriate for resolution under these procedures; (ii) whether the Complainant has standing to file the Complaint; (iii) whether USBA has jurisdiction over the matter; and (iv) whether the Complaint involves matters which USBA has the authority or ability to remedy.

(f) If the Complaint is not dismissed, decisions about the merits of the Complaint and the form of any sanction shall be made by majority vote of the Hearing Panel. The Hearing Panel shall report its decision on the merits in the form of written findings of fact and conclusions. The decision shall be sent to the parties. Subject only to any right to arbitration as is specified in Section 1.14, the decision of the Hearing Panel shall be final and binding upon all parties.

### **Section 10. Discipline.**

The Hearing Panel may impose discipline, including but not limited to the following with regard to Misconduct Complaints:

(a) Reprimand. A communication, either public or private, of USBA's decision to impose a reprimand regarding the Complaint. Any reprimand may be combined with probation or suspension.

(b) Probation. A ruling that, for a specified time, the subject's continued participation in USBA's activities, sanctioned competitions. The Hearing Panel may order that notice of probation be given to appropriate authorities, such as meet directors.

(c) Conditional Membership. A ruling that, for a specified time, the subject's membership programs are conditioned upon the satisfaction of certain conditions. These conditions shall be described specifically, as shall the consequences of failing to meet them. The Hearing Panel may order that notice of certain conditions be given to appropriate authorities, such as meet directors.

(d) Suspension or Expulsion. A ruling that (i) either permanently or for a specified period of time or subject to certain conditions, the subject is prohibited from participating in sanctioned competitions or other of USBA activities, or (ii) in the case where the subject has applied for membership, membership is not allowed, and the subject is placed on the permanently ineligible list. The Hearing Panel may limit the effect of a suspension to certain activities or competitions, and may establish conditions that, if satisfied, will result in the lifting of a suspension. The Hearing Panel may order that notice of suspension, expulsion, or permanent ineligibility be given to appropriate authorities, such as meet directors.

(e) Other. The Hearing Panel may order such other relief as it deems appropriate (e.g., letter of apology or restitution, including, for example, the payment for damaging equipment or the recovery of any financial benefit improperly derived by a Respondent).

### **Section 11. Shifting of Costs and Expenses, and the Awarding of Attorneys' fees in certain circumstances.**

In the context of a Complaint brought by a member against another member of the USBA, where USBA provides the forum for the resolution of the dispute, if the Hearing Panel finds, after fair notice and opportunity to be heard, that either the complaint filed with the USBA against a member, or the respondent member's defense to the complaint, is frivolous and without merit, the Hearing Panel, at its discretion, may award attorney's fees and costs in favor of the prevailing party and against the offending party. Proof of such costs may be submitted to the Hearing Panel by affidavit, submitted under oath by a person with personal knowledge of the facts, and who would then be subject to cross-examination by the losing party. USBA, as the provider of the forum for adjudicating the dispute, may also recover its costs, including attorney's fees, if any, and the expenses of the arbitrators, against the losing party, subject to the same standards and submissions of proof, as set forth above. By availing himself/herself of the rights and remedies provided by the USBA in resolving a complaint between members, the parties agree that they may be liable for the payment of costs and attorney's fees of the prevailing party, and the costs and fees of the USBA, including the expenses of the Hearing Panel members, if the losing party's claim or defense is deemed by the Hearing Panel, after fair notice and an opportunity to be heard, to be frivolous and without merit.

#### **Section 12. Expedited Procedure.**

With respect to an Opportunity to Participate Complaints ONLY, every effort will be made to expedite the proceedings, including, but not limited to, modifications made by the chair of the Hearing Panel to the procedures set forth above in order to resolve the Complaint prior to the start of the event.

#### **Section 13. Hearing Panel Administration.**

The Complaint and Grievance Committee shall be responsible to ensure that all Complaints proceeding to a Hearing Panel are heard in a timely, fair, and impartial manner and may promulgate procedures in addition to those set forth in this policy for the effective administration of Complaints filed with USBA. The hearing will be conducted at a time and place at which all parties are able to attend.

#### **Section 14. General.**

All notices, reports and decisions under this policy shall be made within thirty (30) days after the completion of the hearing in writing and delivered in electronic mail creating a record of receipt. Participation in these procedures shall be deemed to constitute agreement to be bound by the provisions of this policy. If, in the course of a hearing conducted pursuant to this policy, the Hearing Panel discovers that a Respondent has engaged in a Safe Sport Policy violation, those issues will be resolved as set forth in USBA's Response and Resolution Policy.

### **Section 15. Publication of Permanently Ineligible Members.**

Where a final decision has been rendered in a matter where the discipline imposed is permanent expulsion, or permanent ineligibility for membership USBA shall publish the following information in one or more of its publications and on USBA's website:

- (a) the name of the individual;
- (b) the state of residence of the individual where the violation occurred and/or where the individual resides at the time the discipline is imposed; and
- (c) with respect to decisions rendered after the adoption of this Section 15, which of USBA Bylaws, rules, regulations, or policies was violated.

### **Section 16. Arbitration/Appeals.**

USBA agrees to submit to binding arbitration for any controversy involving: (i) an Opportunity to Participate Complaint or (ii) its recognition as a National Governing Body, as is provided in the Sports Act.

Appeals from a decision of a Hearing Panel, if any, shall be made to and filed with the arbitral body selected by the USOPC (currently New Era ADR), within twenty (20) days of service of the Hearing Panel's decision by the party making the appeal. New Era ADR shall proceed with the determination of the matter de novo; and the decision of the arbitrator or panel of arbitrators shall be final and binding, subject only to the rights and remedies of any party to the arbitration under law.

### **Section 17. Retaliation.**

USBA prohibits retaliation against anyone who reports misconduct or provides information about misconduct as more fully detailed in USBA's Whistleblower Policy. Retaliation means any adverse or discriminatory action, or the threat of an adverse or discriminatory action, including threatening, intimidating, harassing, coercing, removing from training or competition, or any other conduct that would discourage a reasonable person from engaging or participating in the complaint processes when the action is reasonably related to the report or engagement with the process. Retaliation may be present even where there is a finding that no violation occurred.

### **Section 18. Ombuds Office**

For athletes seeking information on filing a grievance, contact the USOPC Athlete Ombuds Office at (719) 866-5000, or ombudsman@usathlete.org, or visit <https://www.teamusa.org/athlete-ombuds>.

**Exhibit A**  
**Due Process Considerations**

In any Hearing conducted pursuant to this Procedure, the parties shall have the right to have, and shall be accorded (unless waived in writing), the following:

1. Notice of the charges or alleged violations, with specificity and in writing, and possible consequences if the charges are found to be true;
2. Reasonable time between receipt of the notice of charges and the Hearing with respect to the charges, within which to prepare a defense;
3. Notice of the identity of adverse witnesses provided in advance of the Hearing;
4. The right to have the Hearing conducted at such a time and place so as to make it practicable for the person charged to attend;
5. A Hearing before a disinterested and impartial body of fact finders;
6. The right to be assisted in the presentation of one's case at the Hearing, including the assistance of legal counsel, if desired;
7. The right to present oral and written evidence and argument;
8. The right to call witnesses to testify at the Hearing, including the right to have individuals under the control of an adverse party attend; and to confront and cross-examine such individuals;
9. The right to have a record (i.e., transcript) made of the Hearing. The reporter shall be paid for by the party requesting the reporter; and a copy of any transcript shall be provided to the other party upon payment of half of the cost. Any transcript ordered by a party shall be made available to the Hearing Panel upon request of the Panel.
10. The burden of proof shall be on the proponent of the charge, which burden shall be at least a "preponderance of the evidence" unless an applicable rule of law provides for a higher burden of proof;
11. A written decision, with reasons therefore, based solely on the evidence of record, handed down in a timely fashion; and
12. Written notice of appeal procedures, if the decision is adverse to the person charged, and the prompt and fair adjudication of any appeal.