

UNITED STATES OLYMPIC & PARALYMPIC COMMITTEE

RANDALL S. CATES,	)	
	)	
Complainant,	)	
	)	
v.	)	DECISION
	)	ON
UNITED STATES EQUESTRIAN	)	MOTION TO DISMISS
FEDERATION,	)	
	)	
Respondent.	)	September 7, 2021

I. THE PARTIES

1. Randall S. Cates (“Cates” or “Complainant”) is a former member<sup>1</sup> of the Unites States Equestrian Federation (“USEF” or “Respondent”).
2. USEF is the National Governing Body (“NGB”) for the sport of equestrian in the United States, as certified by the United States Olympic & Paralympic Committee (“USOPC”) pursuant to the Ted Stevens Olympic and Amateur Sports Act (36 USC §§ 220501-220529) (the “Act”) and Section 8 of the USOPC Bylaws.
3. Complainant and USEF are collectively referred to as the “Parties.”

II. PROCEDURAL BACKGROUND

4. On April 22, 2021, Complainant submitted a Complaint with the USOPC against USEF pursuant to Section 220527 of the Act and Section 10 of the USOPC Bylaws.<sup>2</sup>

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<sup>1</sup> Section 10.1.2 of the USOPC Bylaws provides that a “person that belongs to, or is eligible to belong to, an NGB... may file a written [Section 10] complaint.” Cates is not a member of USEF, nor is Cates eligible to become a member of USEF due to his lifetime ban. Although the Hearing Panel does not base its reasoning on this point for the Motion to Dismiss, this basic minimum requirement should be met in order to file a Section 10 complaint.

<sup>2</sup> As noted in the July 27, 2021, Scheduling Order, the proper filing date for the Complaint is April 30, 2021.

5. USEF filed a Motion to Dismiss on May 24, 2021.

6. The Hearing Panel was appointed to hear this case on May 25, 2021.

7. In accordance with the July 27, 2021, Scheduling Order, Complainant filed his Response to the Motion to Dismiss on July 12, 2021, and USEF filed its Reply in support of its Motion to Dismiss on July 27, 2021.

8. The Hearing Panel held oral argument on the Motion to Dismiss by videoconference on August 18, 2021.

9. Counsel for the Parties presented oral argument on the Motion to Dismiss. Steve Smith and Suzanne Crespo of the law firm Bryan Cave Leighton Paisner represented USEF, with Sonja Keating, General Counsel and Sr. Vice President of USEF, attending as the Party representative. Tamara Tucker from the Tucker Law Firm, PLC, represented the Complainant. Additionally, Sara Pflipsen, USOPC Senior Counsel and legal counsel to the Hearing Panel, Lucy Denley, USOPC Manager of Dispute Resolution and liaison to the Hearing Panel participated.

### III. COMPLAINT

10. The underlying controversy that gives rise to the Complaint stems from an athlete safety disciplinary action against Cates in 2015.

11. In early 2015, USEF pursued an action against Cates (a trainer) for allegations of sexual misconduct under its Athlete Protection Policy.<sup>3</sup> A two-day evidentiary hearing was held in April of 2015 with an internal USEF hearing panel (“2015 hearing panel”). The 2015 hearing panel found that Cates engaged in sexual misconduct with a minor and ruled him “permanently expelled from membership” and

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<sup>3</sup> At that time, the U.S. Center for SafeSport was not in existence and NGBs had the authority to take disciplinary action against their members for allegations of sexual misconduct.

“permanently suspended” for his violation (“2015 Decision”) and implemented a lifetime ban. The 2015 hearing panel recognized that it had never previously imposed a lifetime ban, but that it was appropriate in this instance. The decision did not specify any avenues for reinstatement.

12. In July of 2015, Cates sought review of the 2015 Decision through the USEF Hearing Committee. The Hearing Committee reaffirmed the 2015 Decision.

13. On May 21, 2020, Cates filed a Petition for Reinstatement. USEF provided him with a hearing to determine whether someone permanently banned may seek reinstatement and if so, what standards would apply. The 2020 hearing panel reaffirmed that the 2015 Decision “unequivocally state[s] that [Cates] is permanently expelled, without an option for reinstatement.” The 2020 hearing panel expressed that it would “not disturb that essential determination” of the original panel and that it “did not see any reason to allow a mechanism for reinstatement,” and thus, the petition was denied. The 2020 hearing panel also commented that “even if” Cates was able to seek reinstatement that he would not qualify.

14. In the Complaint, Cates contends that because the 2015 Decision did not specifically deny any option for reinstatement, that he was still eligible to petition for reinstatement and that there was no rule in 2015 that permitted USEF from prohibiting him from applying for reinstatement.

15. Additionally, Cates argues that the 2020 hearing panel erroneously based its decision on 2020 rules instead of the 2015 rules. Cates contends that since the 2015 rules did not specifically include “permanent ineligibility... as a penalty for misconduct,” the hearing panel “could not have imposed such a penalty on Cates” and had no authority

to declare him permanently ineligible. Permanent ineligibility was only added to the USEF General Rules later.

16. Cates asserts that the 2020 hearing panel “modif[ied] the 2015 Decision by finding that what the 2015 hearing panel **meant** (but did not say) was that Cates was prohibited from applying for reinstatement and was not eligible for reinstatement.”

17. Cates asserts that the 2020 hearing panel was not empowered to modify the 2015 Decision and in order to modify the decision and impose an additional penalty,<sup>4</sup> USEF needed to afford Cates the opportunity to be reheard on the original allegations.

18. As a result of Cates’ contention that the 2020 Decision imposed an additional penalty against Cates without a new hearing, Cates asserts the following allegations of non-compliance against USEF:<sup>5</sup>

a. USEF fails to adhere to its General Rules 201-203, 601 and 703, involving the USEF disciplinary action grievance process.

b. USEF fails to comply with Section 220522(8) of the Ted Stevens Act, which requires NGBs to provide “an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, sex, age, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate.”

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<sup>4</sup> Cates contends the additional penalty was the denial of an option to petition for reinstatement.

<sup>5</sup> Subsequently, Cates filed an internal non-compliance complaint and an identical opportunity to participate complaint with USEF. Those claims were dismissed which led to the current proceeding.

19. In the Complaint, Cates requests the following relief:
  - a. USEF's status as an NGB be revoked; and
  - b. Reinstatement of his USEF membership.<sup>6</sup>

IV. MOTION TO DISMISS

20. In the Motion to Dismiss, USEF contends (i) that all claims related to USEF's alleged violation of its own Bylaws or rules are not within the scope of Section 10, and (ii) the only part of the Act that is relevant is whether USEF failed to provide Cates with a hearing before declaring him ineligible.

21. To the latter point, USEF contends that Cates has failed to state a claim because the Complaint does not show that USEF failed to provide Cates with a hearing before declaring him ineligible.

22. USEF expresses how the only time Cates was declared ineligible was in 2015, and USEF provided Cates with a full evidentiary hearing before expelling him from membership. USEF provided him with a review of that decision. USEF also provided him with a hearing in 2020 to determine whether he was eligible to petition for reinstatement. USEF contends that there is simply no evidence to show that USEF has failed to provide him with an opportunity for a hearing.

23. In the alternate, USEF argues that the Complaint is moot because his petition for reinstatement was already decided.

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<sup>6</sup> Section 10 cases only involve allegations of NGB non-compliance and not participation issues. A Section 10 hearing panel does not have the authority to reinstate a member. It has already been communicated to Cates that reinstatement of his membership is outside the scope of this Section 10 proceeding. Cates is pursuing his reinstatement claim elsewhere. The Hearing Panel questions whether Cates is pursuing this Complaint as another attempt to gain reinstatement rather than seeking NGB compliance.

24. And lastly, if the Complaint is not dismissed on those two grounds, USEF requests that the matter be stayed until the conclusion of Cates' participation complaint that is pending with the American Arbitration Association.

25. On the other hand, Cates contends that the failure of the 2015 hearing panel to address reinstatement amounted to imposing a penalty of permanently ineligible, which was outside of the authority of the hearing panel to do in accordance with the 2015 rules. Cates expresses that "*permanent expulsion and permanent ineligibility are not the same thing*," so the 2020 hearing panel must have either acted erroneously in its reliance on a rule that did not exist at the time, or made a new determination that he was permanently ineligible without re-adjudicating the underlying conduct.

26. Cates argues that the 2020 hearing panel "improperly modified" the 2015 Decision and "retroactively impose[d]" a penalty of permanent ineligibility amounting to an additional penalty that was imposed on Cates, without allowing Cates to be reheard on the original allegations. Therefore, he argues he was not provided with due process and that he has stated an appropriate claim.

27. USEF counters that Cates' entire argument rests on the premise that the 2015 hearing panel did not have the authority to declare Cates permanently ineligible in the first instance, which USEF argues is patently false. Additionally, USEF asserts that Cates' attempt to bring forth this Complaint is simply a relentless campaign to regain membership in USEF by any means possible, rather than assert any NGB non-compliance.

V. RULING

28. In its consideration of the Motion to Dismiss, the Hearing Panel reviewed the Complaint and all the papers filed in support of and in opposition to the Motion to Dismiss. The Hearing Panel also considered the oral argument presented by the Parties.

29. It is the determination of the Hearing Panel that USEF's Motion to Dismiss is granted for the failure to state a claim. Since dismissal is based on this ground, the Hearing Panel makes no ruling on whether the Complaint is moot.

30. All members of the Hearing Panel reviewed and approved this written Decision.

VI. ANALYSIS & DETERMINATION

**A. Scope of Review**

31. First, Section 10.1.2 of the USOPC states that a complaint can be filed against an NGB for its failure to comply with the "requirements of Section 8 of these [USOPC] Bylaws and Sections 220522-220525 of the Act." Nothing within Section 10 allows for an individual to file a complaint against an NGB for failure to comply with its own Bylaws. It is clear that Cates' claims of USEF's failures to follow its own Bylaws are outside the scope of Section 10 (*see Hightower v. US Bowling Congress*, Dec 1, 2016 Decision and Order, pg. 15 para. 66, stating "whether an NGB is in compliance with its bylaws does not in and of itself give rise to a cause of action pursuant to Section 10"). Therefore, all of Cates' allegations that USEF failed to adhere to its own Bylaws are dismissed.

32. Secondly, Cates contends that USEF violated Section 220522(8) of the Act, which states that an NGB must provide:

“an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, sex, age, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate...”

33. Cates did not make a discrimination claim within the Complaint, so that is also not within the purview of this Decision.

34. Accordingly, the scope of analysis on the Motion to Dismiss rests with whether a claim has been stated that USEF failed to provide fair notice and an opportunity for a hearing before declaring Cates ineligible.

**B. Failure to State a Claim**

35. The question before the Hearing Panel is whether Cates has brought forth any evidence or claim that USEF declared him ineligible prior to providing him with a hearing.

36. It is not enough for a complainant to make a single allegation that relates to the subject matter of Section 10 without any further connected proof.

37. As stated in *Lee v. U.S. Speedskating*, “a complaint must allege with particularity the alleged grounds of non-compliance” (Decision on Motion to Dismiss, pg. 11, para. 51). Further, in that case, the panel commented:

“The Hearing Panel is not inclined to assume that Lee’s Complaint is proper simply because he included ‘Section 10’ in the title. If Lee intends to contest USS’s fulfillment of its obligations of an NGB that must be the purpose of the Complaint” (*Id* at pg. 12, para. 55).



38. In this case, Complainant raises one sentence in the final paragraph of the Complaint, where he alleges, “[a]s a result of the foregoing, USEF has violated USEF rules, Bylaws, and/or the Ted Stevens Act.” However, Complainant must provide some factual basis for the claim, alleged with particularity, and not merely cite legal conclusions.

39. The only instance where Cates was declared ineligible was when a decision was provided *after* the 2015 full evidentiary hearing.

40. The 2015 hearing panel, after hearing two days of testimony and examining thousands of pages of evidence, determined that Cates violated the Athlete Protection Policy for sexual misconduct with a minor and permanently expelled him from membership.

41. Cates acknowledges that he was granted a full evidentiary hearing before that decision and there is no evidence or contention otherwise.

42. The pleadings by both Parties show that a hearing was held before permanently expelling Cates from membership and therefore, the Hearing Panel is satisfied that no claim has been made that USEF is out of compliance with its obligations to provide a hearing before declaring an individual ineligible.

43. Further, the Hearing Panel is not persuaded by any argument that permanent expulsion and permanent suspension are somehow different than permanent ineligibility. Cates received a lifetime ban in 2015 so the 2020 Decision did not add another sanction against Cates. Call it by whatever term one desires, it was abundantly clear that Cates was expelled from membership for life after a full hearing in 2015, a sanction that was not limited under USEF’s rules.

44. Nothing mandates that an NGB must require an individual who is declared permanently expelled the ability to petition for reinstatement.

45. Additionally, USEF provided Cates with a review hearing (akin to an appeal) which upheld the 2015 Decision. And, in 2020, USEF provided Cates with another hearing on his petition for reinstatement.

46. Cates attempt to state that the 2020 hearing panel added an “additional penalty” or “modified” his sanction is simply overbroad and overreaching. An NGB’s obligation is to provide a hearing prior to declaring someone ineligible. USEF did that. Cates was provided a full hearing in 2015 and then declared ineligible, for life. Nothing in 2020 changed that.

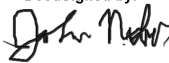
47. There is simply nothing pled in the Complaint that shows any claim that USEF failed to provide a hearing to Cates prior to declaring him ineligible. Accordingly, the Motion to Dismiss is granted.

VII. ORDER

48. USEF’s Motion to Dismiss is granted.

49. The Section 10 Complaint is hereby dismissed.

Dated this 7<sup>th</sup> day of September, 2021.

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John Naber, Chair  
Jeff Plush, Panel member  
Elana Meyers-Taylor, Panel member