
United States Olympic Committee

Audit Division



Report for:
USA Cycling

Review of:
Compliance Checklist

Dated:
December 5, 2018



December 5, 2018

Derek Bouchard-Hall
Chief Executive Officer
USA Cycling

Dear Derek,

Enclosed is the United States Olympic Committee's (USOC) report on the 2018 Compliance Checklist for USA Cycling (USAC). We want to express our appreciation for the time you and your team spent completing the Checklist and providing documents during the review.

USAC was compliant in the areas of governance/managerial, financial capabilities, and SafeSport. The review initially identified three deficiencies related to due process and athlete representation, and anti-doping. Prior to issuance of the final report, two of the deficiencies were remedied, with one currently outstanding. There are two additional observations in the report that when implemented, will improve due process and SafeSport Policy requirements.

The report will be presented to the USOC Audit Committee at its next quarterly meeting and will be made available on the Team USA website. We hope you found the review process to be helpful. If you have any suggestions, please do not hesitate to share them with us.

Sincerely,

Bridget Toelle, CPA, CIA
Senior Director, Audit

Andrea Andrews, CIA
Principal Auditor

cc: Rick Adams Rachel Isaacs Bob Stapleton
Alan Ashley Chris McCleary Alison Tetric
Wendy Guthrie Denise Parker Shane Garman
Onye Ikwuakor Sara Pflipsen



COMPLIANCE CHECKLIST REPORT

USA Cycling

OBJECTIVE AND SCOPE

The objective of the review is to verify USA Cycling (USAC) is in compliance with key elements of the Ted Stevens Olympic and Amateur Sports Act, the USOC Bylaws and certain USOC policies, in order to demonstrate ongoing commitment to the values and requirements of membership in the USOC. The scope includes the 2018 Compliance Checklist certified by USAC and the supporting documents provide by USAC.

The following chart shows all the requirements in the Compliance Checklist and corresponding status for USAC. For any deficiencies, see the recommendations and action plans after the chart.

	Question	Status
Governance/Managerial		
1	Do you have a code of conduct for your employees, members, board of directors and officers?	Compliant
2	Do you have a strategic plan that is capable of supporting athletes in achieving sustained competitive excellence, and in growing the sport?	Compliant
3	Do you have your current bylaws posted on your website?	Compliant
Financial Capability		
4	Are you recognized by the IRS as a tax-exempt organization?	Compliant
5	Are you incorporated under the laws of a state of the United States or the District of Columbia as a not-for-profit corporation?	Compliant
6	Do you have your three most recent IRS Form 990s on your website?	Compliant
7	Have you completed and posted on your website your three most recent annual audited financial statements?	Compliant
8	Do you have written financial policies and procedures?	Compliant
9	Do you have an approval and/or review process for cash disbursements?	Compliant
10	Do you provide frequent (monthly or quarterly) financial statements to your board or designated committee?	Compliant
11	Do you have a board-approved annual budget?	Compliant
12	Have you spent USOC funds as required by the funding agreements in the previous 12 months?	Compliant
Due Process and Athlete Representation		
13	Do you provide procedures for the prompt and equitable resolution of grievances of your members?	Compliant
14	Do your grievance procedures provide for fair notice and opportunity for a hearing to any athlete, coach, trainer, manager, administrator or official before declaring the individual ineligible to participate?	Compliant
15	Do you require at least 20% athlete representation on grievance panels?	Compliant
16	Do you have at least 20% athlete representation on your board of directors?	Compliant
17	Do you have at least 20% athlete representation on your budget committee?	Compliant

18	Do you have at least 20% athlete representation on your selection committee, which prepares, approves or implements selection of international, Olympic, Paralympic and Pan American Games team members, including athletes, coaches, administrators and sport staff?	Compliant
SafeSport		
19	Do you have USOC SafeSport language in your bylaws that provides jurisdictions to the U.S. Center for Safe Sport?	Compliant
20	Do you have a USOC-compliant Athlete Safety Policy?	Compliant
21	Do you have a grievance process that is materially free of bias and conflicts of interest for SafeSport allegations, and includes the opportunity for review by a disinterested individual or body?	Compliant
22	Does your policy require criminal background checks, at least every two years, for those individuals that are formally authorized, approved or appointed (a) to a position of authority over, or (b) to have frequent contact with athletes?	Compliant
23	Does your policy require education and training specific to SafeSport for those individuals that are formally authorized, approved or appointed (a) to a position of authority over, or (b) to have frequent contact with athletes?	Compliant
Anti-Doping		
24	Do you inform Athletes, Athlete Support Personnel and other Persons in your sport of the USOC National Anti-Doping Policy and of the USADA Protocol?	Compliant
25	Unless otherwise agreed by USADA, at least quarterly do you provide USADA with an updated list of athletes, proposed by your NGB, to be included in the USADA RTP? With respect to each athlete on such list and such additional athletes as may be designated by USADA for inclusion in the USADA RTP, do you provide USADA with initial contact information which shall, at a minimum, include accurate residential, mailing and email addresses (if available) and phone numbers for each athlete?	Compliant
26	At least six months prior to the commencement of the most recent applicable Olympic or Paralympic Games, did you provide USADA with a list of all athletes that may have reasonably been selected to represent the U.S. in such Games?	Deficient
27	Do you have an identified staff member to act as a liaison with USADA?	Compliant

DEFICIENCIES

Do you provide procedures for the prompt and equitable resolution of grievances of your members?

Cycling was deemed deficient for the following:

- Although the Bylaws state that Cycling agrees to submit to binding arbitration in any controversy, Policy III- Administrative Grievances (Policy III) does not contain a provision for binding arbitration and in some cases the resolution of grievance or complaint is final and there is no appeal process, which does not coincide with the requirement in the Ted Stevens Act.
- NGBs should allow for members to file grievances within the organization related to its recognition as an NGB. Policy III includes acceptance of grievances by members who believe

they have been aggrieved by an action by USAC, or another member, however it does not explicitly include acceptance of grievances regarding Cycling's recognition as an NGB or Cycling's compliance with Act or the USOC Bylaws.

USA Cycling Action Plan: *USA Cycling disagrees with the assessment that it is deficient in this category. USA Cycling's Bylaws provide that it agrees to submit to binding arbitration in any controversy involving: (i) its recognition as a National Governing Body, or (ii) the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition in cycling, upon demand of the USOC or any aggrieved amateur athlete, coach, trainer, manager, administrator, or official, conducted in accordance with the Commercial Rules of the American Arbitration Association or as modified pursuant to the Ted Stevens Olympic and Amateur Sports Act. USA Cycling agrees that this provision is not contained in its Administrative Grievances Policy, but disagrees that this is required. However, USA Cycling agrees that it will add a provision similar to the one already contained in its Bylaws to its Administrative Grievances Policy.*

USA Cycling disagrees that it does not allow members to file grievances with the organization related to its recognition as an NGB. USA Cycling's Administrative Grievances Policy provides that any member who believes they have been aggrieved by any action by USAC may file an Administrative Grievance. Section 10 of USA Cycling's Administrative Grievances Policy also provides that an Administrative Grievance related to the organization's recognition as an NGB may be brought as a grievance because it is not prohibited by the Administrative Grievance Policy. Finally, as stated in the prior paragraph, USA Cycling specifically states that it shall submit to binding arbitration in any controversy involving its recognition as an NGB. However, USA Cycling agrees that it will add a provision to the definition of an Administrative Grievance specifically stating that a grievance related to USA Cycling's recognition as an NGB is a grievance that may be brought by a member in accordance with the Administrative Grievance Policy.

USOC Status Update: USOC Audit verified the updated USA Cycling Bylaws and Policy III, as presented on the USA Cycling website, to address the need for a provision for binding arbitration and resolution of appealed grievances or complaints, which is now compliant with the Ted Stevens Act.

We also verified the updated Policy III does include acceptance of grievances regarding USA Cycling's recognition as an NGB or compliance with the Act or the USOC Bylaws. USA Cycling is compliant with this requirement as of December 5, 2018.

Do you require at least 20% athlete representation on grievance panels?

Cycling does not require 20% athlete representation on all grievance panels. For administrative grievances and official grievances, there is no mention of athlete representation. In the Administrative Grievances Policy, sections 3.3.2 and 13.1 provide for an athlete representative on SafeSport grievance hearing panels and grievances concerning participation in a Protected Event or international competition, however there should be athlete representation for all grievance panels.

USA Cycling Action Plan: *USA Cycling acknowledges this deficiency and will clearly define "Hearing Panel" in the definitions section of Policy III by explicitly stating that all "Hearing Panels" must include a minimum 20% athlete representation in the amended Policy III which currently exists in draft form.*

USOC Status Update: USOC Audit verified the "Hearing Panel" definition under the Policy III, is to be composed of three impartial individuals, one of which shall be an "athlete representative" as defined in

Section 8 of the USOC Bylaws.

USA Cycling is compliant with this requirement as of December 5, 2018.

At least six months prior to the commencement of the most recent applicable Olympic or Paralympic Games, did you provide USADA with a list of all athletes that may have reasonably been selected to represent the U.S. in such Games?

According to USADA, USAC submitted their long list of athletes for the 2016 Rio Games on April 19, 2016 (or approximately 4 months out from competition), which did not meet the minimum requirement of at least 6 months prior to competition in accordance with the USOC National Anti-doping Policy, Section 4.7. USAC needs to ensure future list submissions are completed at least 6 months prior to a competition. USAC will not be able to remedy this deficiency until 6 months prior to the next Olympic Games.

USA Cycling Action Plan: *Given the nature of the selection process for some cycling disciplines which do not allow a long team to be named at least 6 months prior to the Games, and USA Cycling's clear communications with USADA and the USOC on this fact, USA Cycling does not believe a deficiency score in this category is fair. USA Cycling named the Olympic long teams and shared that information with USADA in cases in which the disciplines and racing schedules allowed for those teams to be named by the six-month deadline; however, the other disciplines' racing schedules did not allow for this and USA Cycling communicated this fact to USADA and offered a list of those most likely to be named to the long team as an alternative solution.*

Further detail on circumstances in 2016

In 2016, USA Cycling named long teams for four Olympic cycling disciplines: road, mountain bike, track, and BMX. Mountain bike (both men's and women's), and women's road Olympic long teams were named on December 4, 2015. Track (men's and women's) Olympic long teams were named on December 18, 2015; the men's track long team was amended on April 1, 2016, to reflect the finding from Bobby Lea's arbitration hearing. While most athletes named to these long teams were already included in the 2016 Q1 RTP, there were five (three from MTB and two from track) additional athletes added to the RTP on February 19, 2016, as a result of being named to the Olympic long team.

As of December 18, 2015, the remaining long teams which had yet to be named were: men's road, and BMX (both men and women). A conversation with USADA took place on March 18, 2016, informing USADA that the BMX Olympic long team would not be named until June 1, 2016, following the conclusion of the BMX World Championships in Medellin, Columbia from May 25-29, 2016. It was explained the BMX World Championship results were a component of the Olympic selection criteria. USADA was offered a list of potential athletes for the Olympic long team which included six additional athletes who were not already included in the RTP. On March 23, 2016, USADA informed USAC that they elected not to add the six 'potential athletes' to the list at that time, instead opting to wait for the long team to be named on June 1, 2016.

USADA inquired with USA Cycling on April 19, 2016, as to the men's road Olympic long team. USA Cycling responded the same day indicating the men's Olympic long team would not be named until June 24, 2016, in accordance with the USA Cycling selection criterion:

<https://s3.amazonaws.com/USACWeb/forms/selection/16%20SOG%20CYC%20ATH%20%28ROAD>

[%20TT%29%20M%20vAmended-2%20FINAL_SIGNED.pdf](#)

In summary, USA Cycling was not in a position to offer to USADA an Olympic long team for BMX six-months prior to the Rio Games due to the BMX World Championships being held inside that six-month window and due to the fact that the BMX World Championship results were used in selection. USA Cycling was also unable to produce the men's road Olympic long team due to a number of selection criteria and events which took place after the six-month deadline. USA Cycling communicated with USADA on this fact and offered a list of athletes most likely to be named to the long team.

Going forward

USA Cycling will make a stronger attempt for the 2020 Games to ensure USADA is clearly aware of all selection time-frames, including an explanation why any specific discipline's long team may require a late submission, and will request USADA provide guidance in how those disciplines are handled. USA Cycling will do whatever it can to assist USADA in monitoring 6 months prior to the Games those athletes most likely to be named to participate.

ADDITIONAL OBSERVATIONS

During the review we identified additional areas for improvement. The additional observations do not impact the compliant status but could impact it in the future.

Do your grievance procedures provide for fair notice and opportunity for a hearing to any athlete, coach, trainer, manager, administrator or official before declaring the individual ineligible to participate?

Cycling's Administrative Grievances Policy, Part 5, 26, Objections to Red Light Determinations, licenses or certifications are denied when the outside background check agency issues a "red light" determination. Objections to the "red light" determination can be made through the outside agency. The individual does not have the opportunity for a hearing related to the right to participate.

According to the Ted Stevens Act, NGBs must provide an opportunity for a hearing to an amateur athlete, coach, trainer, manager, administrator, or official before declaring the individual ineligible to participate. The USOC is concerned that Cycling's hearing process may be inconsistent with that requirement.

The USOC recognizes that Cycling has adopted the position that a hearing is offered through the outside agency making the "red light" determinations. This interpretation of a hearing could be challenged. If such a challenge was raised, the USOC would support that challenge being heard by a Section 10 hearing panel, for its consideration and final resolution.

USA Cycling Action Plan:

USA Cycling disagrees that it must provide adjudicated criminals an opportunity to argue that they should be allowed to participate in amateur athletic competitions. It further argues that fair notice and an opportunity for a hearing has already been offered to members who are involved in criminal conduct or who have received "red light" background checks by virtue of the adjudication process which led to their criminal convictions.

USA Cycling has determined that members who have been adjudicated to have committed certain types of crimes are not eligible to be members of USA Cycling or participate in amateur athletic competition. Conviction of such crimes is per se a violation of USA Cycling policy and USA Cycling is not required to re-adjudicate such matters. Members who have been convicted or plead guilty, nolo contendere or its equivalent were provided with fair notice at the time they were charged or convicted. If a member who has been convicted or plead guilty, nolo contendere or its equivalent wish to contest their suspension, they may do so pursuant to USA Cycling's stated agreement to submit to binding arbitration on such matters of eligibility to participate. The same is true for such members who have received background check "red lights."

While USA Cycling disagrees with the USOC on this issue, USA Cycling will comply with the USOC's position on this issue. USA Cycling has already created a draft provision adding an "exemptions hearing" to allow members who have been denied membership due to "red light" background checks. USA Cycling will add a similar provision allowing for an opportunity to be heard for those who have been convicted of or plead guilty, nolo contendere or its equivalent.

Do you have a USOC-compliant Athlete Safety Policy?

Auditor completed a review of Cycling's SafeSport program based on requirements as of the compliance review date of February 22, 2018. Auditor also identified as of that date, the USA Cycling SafeSport Policy is in compliance with the requirements as of the time of this review; however, USA Cycling has not yet brought its SafeSport policies into compliance with the requirements which must be in place by September 2018, and if those policies are not updated by that date, it will be considered deficient. Cycling should ensure their SafeSport program is updated for newly required elements prior to September 2018 to ensure continued compliance.

Additionally, it is not yet required in USOC Athlete Safety Policy, however NGBs must comply with the Protecting Youth Victims from Sexual Abuse and Safe Sport Authorization Act of 2017. The legislation requires that any reports of child abuse go to the US Center for SafeSport, however the Cycling Misconduct and Abuse Reporting Policy did not specifically require this at the time of review. USA Cycling should update policies to ensure they comply with the legislation.

USA Cycling Action Plan: *USA Cycling offers that draft amendments to address all required SafeSport policy updates are currently in review. USA Cycling anticipates publishing a USA Cycling SafeSport Handbook by September 1, 2018, which will include all required amendments including but not limited to: Protecting Youth Victims from Sexual Abuse and Safe Sport Authorization Act of 2017; the USOC's NGB Athlete Safety Policy; and any amendments necessary to be compliant with the U.S. Center for SafeSport's policies.*

CONCLUSION

With USA Cycling's remedies to the initial deficiencies identified during the USOC Compliance Review, except for pre-Olympic Games Anti-Doping requirements, it is now fully compliant with the USOC's Compliance Checklist.