



USA Diving National Board of Review Policy

Revision Date: April 1, 2022

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 nine (9) members appointed pursuant to the Charter of the National Board of Review (the "Charter").
- (ii) Any vacancy occurring in the non-athlete position shall be filled pursuant to the Charter.
- (iii) Any vacancy occurring in the athlete position(s) shall be filled by the USA Diving Athlete Advisory Council.
- (iv) 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 and the USA Diving, Inc. Code of Conduct 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, FINA 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.

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) When 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. If the respondent in the Complaint is a coach, then at least two (2) members of the Hearing Panel shall be coaches.

(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 of the Procedures.

(iii) In any proceeding in which the Corporation is the complainant or a respondent, the Hearing Panel shall include at least one non-member.

(iv) In the event of a non-athlete vacancy for any reason on a Hearing Panel, the vacant position shall be filled by an individual appointed by the Chair of the BOR after consultation with the other BOR members. A vacancy in an athlete position shall be filled by the USA Diving Athlete Advisory Council.

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”);
- (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 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 of 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 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 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 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. A party may publish a redacted summary of a final decision. A “redacted summary” shall delete the names of all witnesses (other than parties), all minors, and members of the Hearing Panel, other than the Chair.

ARTICLE IV. MANDATORY REPORTING REQUIREMENTS

4.1. General.

To the extent that this provision conflicts with any other provision of the USA Diving Policy or the Procedures, this provision shall control. All capitalized terms used but not defined in this Article shall have the meaning set forth in the [SafeSport Code](#) for the U.S. Olympic and Paralympic Movement (the “Code”).

4.2. Jurisdiction.

The U.S. Center for Safe Sport (the “Center”) shall have exclusive jurisdiction to investigate and resolve the following matters:

- (i) Sexual Misconduct, including without limitation child sexual abuse and any misconduct that is reasonably related to an underlying report of Sexual Misconduct;
- (ii) Criminal Charges or Dispositions involving Child Abuse or Sexual Misconduct;
- (iii) Misconduct related to Reporting, where the underlying report involves Child Abuse or Sexual Misconduct;
- (iv) Aiding and Abetting, when it relates to the Center’s process;
- (v) Misconduct related to the Center’s process;
- (vi) Other Inappropriate Conduct, as defined in the Code.

USA Diving Participants must report any matter within the Center’s exclusive jurisdiction directly to the Center. The Center has concurrent, discretionary jurisdiction over the matters set forth in Section IV.B of the Code.

4.3. Reporting Requirements.

a. Reporting to the Center.

(i) Obligation to Report. Individuals should not investigate suspicions or allegations of child abuse or neglect or attempt to evaluate the credibility or validity of allegations as a condition for reporting to the Center or appropriate law enforcement authority. Anyone, even if not obligated to report, is encouraged to report possible other violations of the Code.

(1) Child Abuse. Adult Participants or “covered individuals,” as defined by federal law, who learn of information and reasonably suspects that a child has suffered an incident of child abuse, including sexual abuse, shall immediately make a report of the suspected abuse to both the Center and law enforcement. Reporting to the Center does not satisfy the Corporation’s or Adult Participant’s obligation to report to law enforcement or other appropriate authorities.

(2) Sexual Misconduct. Adult Participants must report reasonably suspected incidents of Sexual Misconduct directly to the Center.

(3) Emotional and Physical Misconduct. Adult Participants must report to USA Diving emotional and physical misconduct (including bullying, stalking, hazing, and harassment) prohibited under the Code and violates of proactive policies.

(4) Criminal Dispositions. Adult Participants must report Criminal Charges and Dispositions involving sexual misconduct or misconduct involving Minors to the Center. Adult Participants must report Criminal Charges and Dispositions involving any other form of misconduct to the USOPC.

(5) Misconduct Related to the Center’s Process. Adult Participants must report to the Center any suspected incidents of Aiding and Abetting, Abuse of Process, and Retaliation.

US Diving will promptly deliver written notice to the Center of reported disclosures of possible Code violations. The Corporation will notify the USOPC’s Office of Athlete Safety as soon as possible and in any case within 24 hours of learning of an allegation of Prohibited Conduct, as defined in the Code, that occurred at an Olympic & Paralympic Training Center (“OPTC”) or at any third

party-sponsored event in which the USOPC sends a delegation (a "Delegation Event").

(ii) Ongoing obligation. The obligation to report is a continuing one and is not satisfied simply by making an initial report of an incident. The obligation includes reporting on a timely basis all information of which an Adult Participant becomes aware. If an Adult Participant learns additional information, including but not limited to information regarding the nature of an incident, the identity of witnesses, statements regarding the incident (including by the Reporting or Responding Party), or the existence of evidentiary material (such as documents, electronic communications such as emails or text messages, medical reports, photographs, audio or video recordings or social media activity), he/she must promptly report that information to the Center or the Corporation, as appropriate.

b. Reporting to Law Enforcement. While the Center will act as a mandatory reporter, reporting conduct to the Center that may also be criminal does not satisfy any obligation under state or federal law to report known or suspected child abuse or neglect. Criminal violations must be reported to appropriate law enforcement. Parties that report violations to law enforcement are required to similarly notify the Center. For state-by-state reporting information, visit <https://www.childwelfare.gov/topics/systemwide/laws-policies/can/reporting/>

c. No Statute of Limitations. No criminal, civil, or rules-based statutes of limitations or time bars of any kind prevent the Center or the Corporation from investigating, assessing, considering and adjudicating any relevant conduct regardless of when it occurred.

d. How to Report to the Center.

All possible violations of child abuse or Prohibited Conduct should be reported directly to the Center:

(i) Through the Center's online reporting form: <https://uscenterforsafesport.org/report-a-concern/>

(ii) By Telephone: 24/7 at 1-833-5US-SAFE (1-833-587-7233)

(iii) Reports to the Center must include:

(1) All information known to the party, including the names of witnesses, third parties and persons affected by the misconduct or abuse; and

(2) Identifying information of any person potentially affected by the misconduct or abuse.

e. **How to Report to Law Enforcement.**

All possible violations of child abuse or Prohibited Conduct should be reported to Law Enforcement:

(i) The agency designated by the Attorney General, consistent with federal requirements set forth in section 226 of the Victims of Child Abuse Act of 1990 (34 U.S.C. § 20341).

(ii) Applicable State Law Enforcement agency; learn more about this requirement by visiting <https://www.childwelfare.gov/topics/responding/reporting>.

4.4. Distribution of the Center’s Final Determinations.

Upon notification and confirmation that the Center has made a determination that a current or former member of the Corporation is “Permanently Ineligible,” the Corporation shall immediately provide notice of such information to its allied and affiliate member organizations, including, but not necessarily limited to, the NCAA, YMCA and NFHS. In addition, the Corporation shall immediately provide notice of such information to any national organization, which operates a nationwide diving program in which USA Diving Coach members also participate, including but not limited to, the AAU. The notice shall include the information posted on the Center’s website regarding the Permanently Ineligible member.

4.5. Distribution of the Center’s Interim Actions.

Upon notification and confirmation that the Center has made an interim determination that a current or former member of the Corporation is subject to temporary conditions or suspension, the Corporation shall immediately provide notice of such information to its allied and affiliate member organizations including, but not necessarily limited to, the NCAA, YMCA and NFHS. In addition, the Corporation shall immediately provide notice of such information to any national organization, which operates a nationwide diving program in which USA Diving Coach members also participate, including but not limited to, the AAU. The notice shall include the information posted on the Center’s website regarding the affected member, and may suggest that the member organizations review the Center’s website for updated information from time to time.