

PROCEDURES OF THE USA DIVING NATIONAL BOARD OF REVIEW

1. Filing of a Complaint.

a. A complaint pursuant to Article 22, Section 22.6 shall be filed with the USA Diving Board of Review Coordinator. A complaint is to be in writing in the English language, preferably typed, on 8.5" by 11" white paper. Exhibits may be attached, sized to 8.5" by 11".

b. The complaint is to state the complainant's name, street address, mailing address if different from the street address, telephone number and e-mail address. The complaint is to 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 (if known), and the same information for any person who may be adversely affected but is not named as a respondent by the complainant. Failure to provide the required information regarding each respondent may result in dismissal of the complaint.

c. The complaint is to set forth in detail the nature of the complaint including all applicable facts and the section(s) of the USA Diving ByLaws which the complainant believes are applicable. The complainant shall also set forth the relief the complainant requests be granted by the Board of Review.

d. In the case of a complaint based on an adverse determination arising from a background check, the complaint must be submitted within 20 days of receipt of notice of an adverse report (or such shorter time period as circumstances may warrant) from the USA Diving Board of Review Coordinator. 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.

e. The complaint is to be signed by the complainant or, if an entity, by an authorized representative of the complainant.

f. The complaint is to 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. In the event that complainant believes that the 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, with supporting information. All information received under this subsection shall remain confidential.

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

USA Diving Board of Review Coordinator
USA Diving, Inc.
1060 N. Capitol Ave., Suite E-310
Indianapolis, IN 46204

A proceeding under this section shall be deemed commenced upon receipt of the hard copy or electronic copy of the complaint by the USA Diving Board of Review Coordinator. Either the written copy or electronic copy first received by the Board of Review Coordinator will be the

official copy for all purposes.

h. 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 USA Diving Board of Review Coordinator at the above address unless otherwise directed by the Board of Review or the chair of the hearing panel. When feasible, an electronic copy shall be sent to the USA Diving Board of Review Coordinator (or other designated person); however, the written copy of all such documents shall be the official copy for all purposes.

2. Receipt of Complaint.

a. The USA Diving Board of Review Coordinator will receive the complaint. The complaint shall be noted with the date, time of receipt, and initials of the person receiving the complaint.

b. The USA Diving Board of Review Coordinator 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 USA Diving Board of Review Coordinator will immediately forward a copy of the complaint to the Chair of the Board of Review committee.

3. Notification of Respondent Parties.

a. The Chair of the Board of Review or the Chair's designee will within five business days of the receipt of the Complaint begin reasonable efforts to notify each respondent party named in the Complaint and will continue such efforts until such notification is accomplished, or the Chair determines that notification cannot be accomplished through reasonable efforts, the complaint is withdrawn, or the Board of Review determines that no action will be taken on the complaint.

b. The notification to the respondent parties will include.

(i) A copy of the Complaint

(ii) A statement that a response from each respondent will be due with 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 be 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 five 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 and will be given notice and an opportunity to respond. In any proceeding involving any committee or board of USA Diving, the Board of Directors may assert the position of the corporation in lieu of the named committee or board.

4. Selection of the Hearing panel.

a. The Chair of the Board of Review, prior to appointing a hearing panel, will review the complaint for sufficiency as set forth in section 21.1(e) of the ByLaws.

b. Within fifteen days after the receipt of a complaint, the Chair of the Board of Review will consult with the other Board of Review members for the purpose of appointing the hearing panel. Unless otherwise provided, the hearing panel will be comprised of a non-voting chair and three voting members, one of which will be an athlete selected from among three athletes recommended by the Chair of the Athletes Committee. The athlete member need not be an incumbent Athlete Representative but must meet the criteria for selection as an athlete representative under the Ted Stevens Amateur Sports Act and USOC ByLaws.

c. The hearing panel chair and the two non-athlete members are not required to be members of USA Diving.

d. Upon selection the hearing panel will be provided with copies of all documents pertaining to the complaint.

e. Members of the Board of Review may be selected to be the non-voting chair or a voting member of the hearing panel.

5. Preliminary Matters.

a. After receipt of a 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 hearing panel may dismiss the complaint on such grounds as it deems appropriate, including, but not limited to, finding the complaint fails to state a claim upon which relief may be granted, the limitation period has expired, the complaint is moot, the hearing panel is without jurisdiction to hear the complaint, or the hearing panel is without authority to grant the requested relief. If the complaint is subject to the mandatory arbitration rules of the U.S.O.C., the hearing panel may proceed and determine all or some of the issues presented, or decline to proceed and refer the parties to their remedies under the U.S.O.C.

6. Request for Information.

The Board of Review shall have access to all available information necessary to render its decision. All parties shall cooperate and timely provide the hearing panel with all information or documents requested. The failure of any party to provide information requested by the Board of Review shall be cause for the dismissal of the complaint or a determination adverse to the party in default.

7. The Hearing.

a. The chair of the hearing panel will give not less than ten days' notice to all parties of the hearing date. Such notice may be given by electronic mail to the address provided by a party.

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 days prior to the hearing, including the name of the counsel, jurisdiction where licensed, the counsel's address, phone number, fax number and e-

mail address.

c. Judicial rules regarding admissibility of evidence shall not apply to a hearing before the Board of Review or a designated 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 or by telephone) 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.

d. 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 or not relevant.

e. 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 and 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.

f. The Hearing Panel Chair may receive and 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 Chair decides is appropriate. The Hearing Panel Chair will consider any objection to such evidence made by the opposing party.

g. The Hearing Panel Chair may receive into 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 made in the ordinary course of their business regarding such matters.

h. 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.

i. The hearing may be conducted in person, or by telephone or video conference, 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, time and format of the hearing is final.

j. If all parties agree in writing, the parties may submit their evidence and arguments in writing in lieu of a hearing. The timing of the submissions by each party will be determined by the chair of the hearing panel after consultation with the chair of the Board of Review committee.

8. Decision of the Hearing Panel.

a. The hearing panel will make its decision within ten business days after the conclusion of the hearing.

b. The written decision of the hearing panel will be prepared by the chair (or designated hearing panel member) and submitted with the chair's signature to the Chair of the Board of Review within thirty days of the decision being rendered by the hearing panel.

c. A copy of the decision will be mailed to each party to proceeding at the address

provided, to each member of the Board of Review committee and included in the records of the proceedings maintained at the National Office of USA Diving.

d. If the complaint is an appeal from the decision of the board of review of a local diving association, the hearing panel may affirm the decision, reverse the decision, or affirm in part and reverse in part and return the decision to the local diving association board of review for further action consistent with the hearing panel's decision.

e. The Hearing Panel, for good cause, may adjust the time period provided above.

9. Retention of Records.

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 one year after the date that the decision of the hearing panel is rendered. At the end of one year the records, except for the written decision, may be destroyed.

10. Expedited Hearing.

a. When exigent circumstances require and pursuant to section 23.4 the Board of Review may hear and decide a complaint within 48 hours. All timelines and filing requirements may be modified to meet the exigent circumstances, so long as due process is afforded all parties.

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.