



USA Diving, Inc. Board of Review, Matters for Review, Proceedings, Appeals, United States Anti-Doping Agency, and United States Center for Safe Sport Policies

Article 21 – Board of Review

21.1 National Board of Review

(a) Composition.

- (i) The National Board of Review (hereinafter “BOR”) shall be comprised of five (5) members:
 - (A) The Chair, who shall **not** be a director, officer, employee, contractor or voting committee member of the Corporation, or a director, trustee, officer or member of the management of any entity that provides financial support to the Corporation and who shall be appointed by the Chair of the Board of Directors with the approval of the Board of Directors;
 - (B) An Independent Member who may or may not be a member of the Corporation, but shall **not** be a director, officer, employee, contractor or committee member of the Corporation, or a director, trustee, officer or member of the management of any entity that provides financial support to the Corporation appointed by the Chair of the BOR with the concurrence of the Chair of the Board of Directors;
 - (C) A full time Coach member of the Corporation who is **not** a director, officer, committee member, employee or contractor of the Corporation, or a director, trustee, officer or member of the management of any entity that provides financial support to the Corporation, appointed by the Chair of the BOR with the concurrence of the Chair of the Board of Directors;
 - (D) An at-large member who is a non-Coach member of the Corporation and **not** a director, officer, committee member, employee or contractor of the Corporation, or a director, trustee, officer or member of the management of any entity that provides financial support to the Corporation, or a director, trustee, officer or member of the management of any entity that provides financial support to the Corporation, appointed by the Chair of the BOR with the concurrence of the Chair of the Board of Directors;
 - (E) An athlete appointed by the Athlete Representatives Committee, who shall **not** be a director, officer, committee chair or employee or contractor of the Corporation, or a director, trustee, officer or member of the management of any entity that provides financial support to the Corporation. This member shall be a qualified athlete representative as defined by the Amateur Sports Act of 1978, as amended and preference may be given to a person no longer competing.
- (ii) Any vacancy occurring under ii, iii and iv shall be filled by the Chair of the BOR with the concurrence of the Chair of the Board of Directors. A vacancy occurring under i

shall be filled by the Chair of the Board of Directors with the approval of the Board of Directors. A vacancy occurring under v shall be filled by the Athlete Committee.

- (iii) The Board of Directors may remove and the Chair of the BOR then replace, (with Board of Directors approval), the Chair of the BOR at any time. The Chair of the BOR, after consultation with the Chair of the Board of Directors, may remove, and then replace with the concurrence of the Chair of the Board of Directors any other member except the athlete member. The athlete member may be removed by the Chair of the BOR after consultation with the Chair of the Athlete Representatives Committee, but replaced only by the Athlete Representatives Committee. All removals may be accomplished with or without cause upon giving written notice to the removed person, copied to all BOR members and to the Chair of the Board of Directors.
- (iv) In the event an emergency requiring the immediate removal and replacement of a member of the BOR and the Chair of the BOR is unable to reach the Chair of the Board of Directors or Athlete Representative Committee Chair, as the case may be, the BOR Chair may act on her/his own initiative temporarily and shall make the required consultation as soon as reasonably possible.

(b) Hearing Panel Selection Group.

- (i) The BOR shall select a group of (twenty) 20 individuals willing and able to serve as members of a Hearing Panel (Hearing Panel Selection Group). The Hearing Panel Selection Group shall be comprised of members and non-members, and shall include not less than 30% coach members. Athletes shall comprise not less than 20% of the Hearing Panel Selection Group and shall be appointed by the Chair of the Athlete Representatives Committee. Appointed athletes need not be current members of the Corporation, but must meet the criteria for selection as an athlete representative under the "Ted Stevens Olympic and Amateur Sports Act", (36 U.S.C. 22051 et seq.) (the Act).
- (ii) In order to maintain the impartiality of proceedings and avoid the appearance of bias, an individual is not qualified to serve as a member of the hearing panel if he or she is, or within a period of 6 months prior has been a relative, coach, employer, employee or otherwise has a substantive relationship with any party to a matter that is before the hearing panel. The fact of membership in the Corporation is not a disqualifying factor. A member of the Hearing Panel Selection Group is to make such disqualifying fact known to the Chair of the BOR when the request to serve on a hearing panel is made, or immediately upon learning such disqualifying fact.

(c) Jurisdiction.

- (i) The BOR is established for the purpose of, and shall have jurisdiction over all disciplinary proceedings and other complaints against all members of the Corporation under the *Rules* and *Bylaws* of the Corporation, except as provided elsewhere in these *Bylaws*. For the purposes of this Subpart C and Subpart D 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 CEO 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 Subpart C.

- (ii) The BOR shall have jurisdiction over all matters asserting a violation of, or a need for the interpretation or enforcement of the *Rules, Bylaws* and Policies of the Corporation, except as otherwise specifically provided in these *Bylaws* of the Corporation, 23.1, the *Rules* and Regulations of the USOC, this Section or under the laws of any State or the United States. The BOR shall also have jurisdiction over such disciplinary matters as may be delegated to the Corporation by the USOC, FINA or under the laws of any State or the United States.
 - (iii) The BOR shall have jurisdiction to review decisions made by the Corporation or its members in the implementation of the Americans with Disabilities Act of 1990 as amended (42 USC 12101 et seq.) and other laws affecting the civil rights and members' ability to participate in the Corporation's activities. The BOR does not have jurisdiction of a decision on a doping violation adjudicated by the independent antidoping organization designated by the USOC to conduct drug testing (currently the U.S. Anti-Doping Agency) (See Article 25).
 - (iv) The BOR's jurisdiction over Misconduct violations as Misconduct is described in Article 30 of these *Bylaws* and is limited by the jurisdiction of the U.S. Center for Safe Sport (See Article 26).
 - (v) The BOR does not have jurisdiction of any matter determined in a prior arbitration under the USOC.
 - (vi) Nonetheless, prior adjudications by the agencies referenced in subsections 3 and 4 of this rule, may be considered as evidence in proceedings arising out of the same conduct by the same or other individuals.
 - (vii) 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 *Rules* or regulations, or who has acted in a manner which brings disrepute upon the Corporation.
- (d) **Duties.**
- (i) *Administration.* 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. The BOR may set additional procedures to effectively administer complaints filed with the Corporation.
 - (ii) *Hearing Panel.*
 - (A) When a complaint is filed, the Chair of the BOR, after consultation with the other BOR members, shall appoint a Hearing Panel from among the members of the Hearing Panel Selection Group of not less than three nor more than five members and a non-voting Chair to hear the complaint. At least one voting member of the Hearing Panel shall be an Athlete appointed by the Chair of the Athlete Representatives Committee (any such athlete must meet the eligibility requirement of the USOC for athlete representative).
 - (B) Members of the panel shall be selected from among the Hearing Panel Selection Group and need not be members of the Corporation or involved in the sport of diving.
 - (C) Within 10 days following the notice to parties of the composition of the Hearing Panel, 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. The challenge shall be decided by the BOR under criteria generally applicable to the challenge of judicial officers in the State of Indiana.

- (D) Notwithstanding the foregoing, the Hearing Panel for any proceeding regarding a complaint alleging a violation by a coach member shall comply with 32.4.
- (E) In any proceeding in which the Corporation is the Complainant or a Respondent, the Hearing Panel shall include at least one non-member.
- (F) In the event of a non-athlete vacancy for any reason on a Hearing Panel, the vacant position shall be filled by the Chair of the BOR after consultation with the other BOR members. A vacancy in an athlete position shall be filled by the Chair of the Athlete Representatives Committee.

(e) Procedures.

Prior to assigning a case to a Hearing Panel, the BOR may review any complaint filed and may determine that such Complaint:

- (i) Fails to state a claim upon which relief may be granted;
- (ii) States a claim over which the BOR lacks jurisdiction;
- (iii) Is moot; or
- (iv) The applicable limitation period expired prior to the filing of the complaint.

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.

21.2 Local Board of Review

(a) Composition.

Each LDC or LDA shall provide in its *Bylaws* for the composition of a Local Board of Review, which shall consist of not less than three persons and not less than 20 percent athlete representative membership. If the LDA *Bylaws* fail to provide for a Local Board of Review or if the LDA lacks *Bylaws*, then a member desiring to raise a disciplinary matter or other complaint may proceed in accordance with 22.1. The procedures provided in the LDA *Bylaws* shall be consistent with the provisions of 22.1.

(b) Jurisdiction.

- (i) A Local Board of Review may consider matters arising under the LDA's *Bylaws*, affecting local governance, association and invitational competitions, matters between members of a single LDA and other matters of strictly local application or effect.
- (ii) A Local Board of Review shall not have authority to suspend or remove a member from the Corporation, but may suspend or remove a member from positions under its own authority (e.g., officers, directors, meet directors in competitions subject to its jurisdiction, etc.).
- (iii) The resolution of any dispute regarding jurisdiction of the Local Board of Review or the BOR shall be determined by the Chair of the BOR, which resolution shall be binding on all parties and be non-appealable.

(c) **Procedures.**

The decision of the Local Board of Review shall be final in all cases, subject only to appeal to the BOR. An appeal to the BOR must be filed with the Corporation Board of Review Coordinator within 30 days after mailing of written notice of the decision of the Local Board of Review. Any person representing a real party in interest may appeal. Upon timely written petition to the Chair of the BOR, and upon showing of good cause, the time of appeal may be extended if application is received by the Corporation Board of Review Coordinator before the expiration of said 30-day period. Such appeal will be considered to be the filing of a complaint in accordance with 22.6. An appeal from a decision on the merits by a Local Board of Review shall be considered under an abuse of discretion standard.

Article 22 – Matters for Review by the Board of Review, Filing Complaint

22.1 Who May File.

The Corporation or any member of the Corporation may file a complaint with the BOR pertaining to matters in the sections that follow.

22.2 Administrative Matters including *Rules and Bylaws*.

An alleged violation or grievance of:

- (a) Any provision of the Corporation's *Bylaws*;
- (b) Any provision of the Act;
- (c) Any appeal from the decision of a local board of review.

22.3 Field-of-Play Decisions.

The final decision of a referee made during competition may not be reviewed under these procedures unless the decision is:

- (a) Outside the authority of the referee; or
- (b) 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.

22.4 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. The Code of Conduct is set forth in Articles 30, 31, 32 and 33 of these *Bylaws*.

22.5 Right to Compete.

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 trials events used to select an athlete to participate in international competitions.

22.6 Filing a Complaint.

- (a) **Form.** The Complaint shall be in writing in the English language, typed (unless time does not permit compliance with this requirement), dated, signed by the Complainant and shall clearly set forth:

- (i) The alleged violation, grievance, denial or threat to deny, or Local Board of Review decision being appealed, together with the facts supporting the complaint; and
- (ii) The remedy requested.
- (b) **Submission.** The complaint accompanied by the filing fee is to be sent to the BOR in care of the Corporation's Board of Review Coordinator. The date of filing is the date received by the Corporation. Delivery may be by using U.S. Mail, by hand, any overnight delivery service or by email to The Board of Review Coordinator in the National Office of the Corporation.
- (c) **Filing Fee.** No fee is required to file a Safe Sport complaint. For all other complaints, a non-refundable filing fee of \$250 from an individual or \$500 from an organization must accompany the complaint. The Corporation is not required to pay a filing fee. Upon confidential application of the Complainant, the BOR may reduce or waive the filing fee in case of financial hardship.
- (d) **Baseless Complaint.** 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.

22.7 Service on Respondent and Time for Reply.

- (a) **Service.** A copy of the Complaint, with any exhibits, will be delivered to the Respondent at her/his last known address as on file with the Corporation within 5 business days of receipt, provided that this time period is directory and not mandatory. 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 under 22.1(a) above, unless proof of an earlier date is clear.
- (b) **Reply.** The Respondent shall have a period of 20 days from the date of delivery of the Complaint to Respondent, to respond to a Complaint. If no reply is received, 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.
- (c) **Hearing Date.** A hearing shall be held within 60 days of the selection of a Hearing Panel. The Hearing Panel may extend the time for setting a Hearing Date on motion by any party for good cause shown, or on its own motion.
- (d) **Rehearing.**
 - (i) 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.
 - (ii) Within 10 days following a final decision, or during an appeal as provided in 24.1, 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 pleading or motion under this 471.6 must be in writing, in the English language and signed by the party submitting it.

22.8 Expedited Proceedings.

Except as provided in 22.9, all time periods provided herein are subject to change as provided in 23.4.

22.9 Limitation Periods.

Except in the case of Acts of Misconduct as defined in Article 30 of these *Bylaws*, a complaint filed under this section must be filed within 365 days of the alleged violation, grievance, denial or threat to deny. A Complaint alleging one or more acts of Abusive Misconduct may be filed at any time after the act giving rise to the Complaint.

Article 23 – Hearing Panels and Hearings

23.1 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*, regulations (administrative or technical) and *Bylaws*, of the Corporation;
 - (ii) Determine the eligibility and right to compete of any athlete;
 - (iii) Vacate, modify, sustain, or reverse any decision or order properly submitted for review, or remand the matter for further action;
 - (iv) Investigate any election impropriety or cause for removal of an elected officer, committee member or Director and take corrective action provided, however, that the removal from office of any Director by the Board of Directors is not subject to review by the BOR. In the case of election impropriety, any corrective action implemented by the BOR remains in effect only until a special or regular election can be held by the Corporation General Assembly or other appropriate body;
 - (v) Interpret any provision of the Corporation's *Bylaws*;
 - (vi) Review any revocation, suspension, or reinstatement of membership;
 - (vii) Reinstate any athlete to amateur status;
 - (viii) Review determinations of these *Bylaws* made by the Governance and Elections Committee as provided in 7.6(c)(i); provided that such determinations from the Governance and Elections Committee shall be presumed correct unless proven otherwise. Review under this section shall be by abuse of discretion standard;
 - (ix) Review determinations of the *Rules* made by the Rules Committee in accordance with 7.3(c).
 - (x) Review the action of any board or committee of the Corporation or action of the Board of Directors of an LDC with regard to procedural propriety and substantive authority. The BOR may uphold the decision, reverse the decision, or uphold in part and reverse in part. In the event of a reversal, in whole or in part, the BOR may determine to remand all or a part of the matter back to the original board or committee for further deliberation consistent with the BOR's decision; and

- (xi) 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.

23.2 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.

23.3 Procedures.

- (a) The Hearing Panel Chair shall rule on all motions and other matters raised in the proceeding. The 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. 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, 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 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. Decisions will be based upon a preponderance of the evidence standard.
- (d) **Evidence.**
 - (i) Judicial *Rules* regarding admissibility of evidence shall not apply to a hearing before the BOR 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.
- (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 or not relevant.
 - (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 chose not to give testimony under a claim of privilege against self-incrimination only to the extent such privilege may apply under the law of Indiana. 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.

23.4 Expedited Procedures.

- (a) If necessary to address a matter relating to a pending or ongoing competition, or in the event of an emergency situation outside of competition, the BOR or Hearing Panel may hear and decide a complaint within 48 hours of the filing, provided that any expedited procedures followed are fair to all parties involved. A Hearing Panel or the BOR shall have wide authority to issue temporary decisions pending a final hearing when necessary to preserve the status quo, ensure the preservation of arguable rights (specifically including but not limited to rights to compete or participate), and for such other purposes as may be appropriate. Temporary decisions are not appealable, but may be changed, reversed or vacated by a final decision after full hearing.
- (b) Nothing in these Articles 21-23 shall affect the ability of the CEO, the Board of Directors or the Chair of the Board of Directors to exercise such emergency action as may be authorized by these *Bylaws* or policies of the Corporation.
- (c) Upon good cause shown by a party or upon its own motion, the Hearing Panel Chair may decrease or increase all time limits under Articles 21 through 23.

23.5 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.

23.6 Decision.

The decision of a Hearing Panel shall be determined by a majority of the Hearing Panel. The decision of the Hearing Panel shall be rendered within thirty (30) business days of the conclusion of the Hearing. The Hearing Panel's decision shall be in writing and shall be distributed to all parties, and may be distributed by email, with receipt confirmed.

23.7 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) regarding alleged Code of Conduct violations shall be and remain confidential except:
 - (i) Information that is necessary to disclose in the course of an investigation 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; and
 - (iv) Information disclosed by the Corporation in response to disclosures by other parties or witnesses in the proceeding.
- (c) The Corporation shall also disclose information to a member club or LDC when an employee or volunteer of such club or LDC has been alleged in a Complaint to have violated the Code of Conduct. 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, as defined in 30.3(b)(v), and members of the Hearing Panel, other than the Chair.

Article 24 – Appeals

24.1 Right to Appeal.

- (a) Any party may appeal a final decision of a Hearing Panel to the Appeals Panel. A Notice of Appeal shall include the caption of the proceeding, the name and all contact information of the appellant, a statement of the decision being appealed, a statement of the facts and grounds upon which the Appeal is based, and a copy of the decision shall be attached. The Notice of

Appeal shall be filed within 20 days of the delivery of a copy of the decision being appealed to the appealing party. Proof of mailing to Respondent's last known address, postage prepaid shall be deemed proof of delivery and constitute service of the decision, 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 under 22.1(a) above, unless proof of an earlier date is clear. The Notice of Appeal shall be filed by delivering a copy thereof to BOR Coordinator of the Corporation, with a copy to the Chair of the Hearing Panel and the Chair of the BOR.

- (b) An Appeals Panel shall consist of two members of the Board of Directors appointed by the Chair of the BOR, plus one athlete member who shall meet definition of an athlete representative set forth in the Act.
- (c) The Appeals Panel may review a Hearing Panel decision and modify or reverse the Hearing Panel Decision only on a finding that the Appellant has been deprived of due process by the Hearing Panel. No new testimony may be taken and the Appeals Panel's Decision shall be based upon the record of the Hearing Panel proceedings.
- (d) If an Appellant shall demonstrate (by written submission only) newly discovered evidence (unknown or not available to the Appellant at the time of the original hearing) and if the Appeals Panel shall find that the newly discovered evidence may likely affect the Hearing Panel's Decision, the Appeals Panel may remand the matter back to the Hearing Panel for consideration of a rehearing as provided under 22.7(c)(2).
- (e) Except as provided under 24.2, the Decision of a Hearing Panel is final unless appealed. If appealed, the Decision of an Appeals Panel is final.

Nothing herein shall affect the right of a party to demand arbitration as provided pursuant to the Act.

24.2 Arbitrator's Discretion.

In the event a member has a right to demand arbitration under the Act and makes such demand in compliance with its terms and the regulations relating to arbitration and the *Rules* and regulations of the USOC, then to the extent permitted by law, an arbitrator may give whatever weight or authority to the decision of a Hearing Panel or Appeal Panel as the arbitrator deems appropriate; unless otherwise provided by applicable law, the Arbitrator shall adopt and use the *Rules*, Regulations and *Bylaws* of the Corporation (including any construction thereof made by the Hearing Panel or BOR), together with such other authorities as may be applicable in determining the issues presented; the filing fee for the appeal shall be paid initially by the Appellant, and all costs for the appeal shall be evenly divided between/among all parties to the appeal without regard to the party prevailing. All parties shall pay their own attorney's fees and costs except as provided herein.

Article 25 – U.S. Anti-Doping Agency

25.1 U.S. Anti-Doping Agency Protocol Compliance General.

As a member National Governing Body of the USOPC and as a member of FINA, the Corporation is obligated to adhere to the anti-doping *Rules* of the USOC and FINA. In addition, USOPC Bylaw Chapter XXIII, Section 2(G) provides that, as a condition of membership in the USOPC, each

National Governing Body shall comply with the procedures pertaining to drug testing, and adjudication of related doping offenses, of the independent anti-doping organization designated by the USOPC to conduct drug testing. The USOPC has designated the U.S. Anti-Doping Agency (“USADA”) as that organization.

25.2 Athlete Responsibilities.

It is the responsibility of each athlete member of the Corporation to comply with the anti-doping Rules of FINA, USOPC and USADA. It is also the responsibility of each athlete member of the Corporation to submit, without reservation or condition, to in-competition and out-of-competition doping controls conducted by either FINA or USADA. (Out-of-competition testing of athletes may take place at elite-level camps, training sessions at USOPC facilities, or at other designated events. No advance notice testing of athletes may take place at any time for those athletes designated by USA Diving and USADA for inclusion in the Corporation’s no-advance-notice testing pool.)

Article 26 – U.S. Center for Safe Sport

26.1 Jurisdiction.

- (a) Notwithstanding anything to the contrary that may be contained in this Subpart C or in Subpart D of these *Bylaws*, the U.S. Center for Safe Sport (“USCSS”) shall have exclusive jurisdiction of all matters of misconduct arising under 30.4(c)(2)(A), namely, sexual misconduct, including sexual abuse.
- (b) The USCSS will have concurrent jurisdiction of the remaining matters of misconduct in 30.4(c).

26.2 Reporting Requirements.

- (a) Reporting obligations.
 - (i) Obligation to report. The Corporation and Covered Adults, except Reporting Parties, shall report promptly a possible violation of Sexual Misconduct or Proactive Policies Protecting Against Sexual Misconduct. Anyone, even if not obligated to report, is encouraged to report possible other violations of the Safe Sport Code.
 - (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 a Covered Individual becomes aware. If a Covered Individual 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 National Office.
 - (iii) Separate obligation to report to law enforcement. While the USCSS will act as a mandatory reporter, reporting conduct to the USCSS that may also be criminal does not satisfy any obligation under state or federal law to report known or suspected child abuse or neglect. If alleged conduct may also be criminal, the USCSS strongly recommends that it be reported to law enforcement. Parties that report Violations to law enforcement are required to similarly notify the USCSS as set forth here.

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 appropriate law enforcement authority. For state-by-state reporting information, visit www.childwelfare.gov.

- (iv) No statute of limitations. Neither civil nor criminal statutes of limitations apply to reports of possible Violations of the Code.
- (b) How to report. All possible Violations of Sexual Misconduct and Proactive Policies Protecting Against Sexual Misconduct established by the USCSS should be reported directly to the USCSS:
 - Telephone: 720.524.5640.
 - Online: <https://www.safesport.org/response-resolution/report>

If an individual discloses a possible Violation of Sexual Misconduct and Proactive Policies Protecting Against Sexual Misconduct to the Corporation, the Corporation shall provide prompt written notice of the disclosure to the USCSS.

USCSS policies and regulations are found at www.safesport.org.

26.3 Distribution of USCSS Final Determinations

Upon notification and confirmation that USCSS has made a determination that a current or former member of the Corporation is “Permanently Ineligible,” the National Office 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 National Office 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 USCSS website regarding the Permanently Ineligible member.

26.4 Distribution of USCSS Interim Actions

Upon notification and confirmation that USCSS has made an interim determination that a current or former member of the Corporation is subject to temporary conditions or suspension, the National Office 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 National Office 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 USCSS website regarding the affected member, and may suggest that the member organizations review the USCSS website for updated information from time to time.