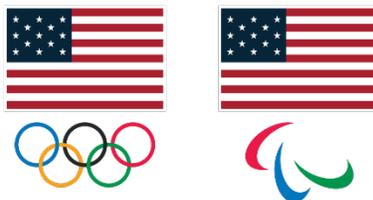


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# United States Olympic & Paralympic Committee

## Audit & Organizational Advancement



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**Report for:**  
**USA Diving**

**Review of:**  
**2019 Compliance Checklist**

**Dated:**  
**April 15, 2020**



UNITED STATES  
OLYMPIC & PARALYMPIC  
COMMITTEE  
1 Olympic Plaza  
Colorado Springs, CO 80909

April 16, 2020

Lee Michaud  
Chief Executive Officer  
USA Diving

Dear Lee,

Enclosed is the United States Olympic & Paralympic Committee's (USOPC) report on the 2019 Compliance Checklist for USA Diving. We want to express our appreciation for the time you and your staff spent completing the Checklist and providing documents during the review.

USA Diving was compliant as it specifically relates to the compliance checklist report for the questions outlined below in the following areas: governance/managerial; financial capability; due process and athlete representation; athlete safety; and anti-doping. There were initially seven deficiencies in the following areas: financial capability; due process and athlete representation; and athlete safety, however, with updates to its policies, USA Diving remedied the deficiencies and is now fully compliant with the USOPC 2019 Compliance Checklist. There are also additional observations in the report that when implemented, would improve the grievance procedures policy language.

The report will be presented to the USOPC Athlete and NGB Engagement Committee and be made available on TeamUSA.org. 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,

Audit & Organizational Advancement Team

cc:	Rick Adams	Chris McCleary	Dave Gascon
	Wendy Guthrie	Denise Parker	Ariel Rittenhouse
	Onye Ikwuakor		CJ Schneider



# 2019 COMPLIANCE CHECKLIST REPORT

USA Diving

## OBJECTIVE AND SCOPE

The objective of the review is to verify USA Diving is in compliance with key elements of the Ted Stevens Olympic and Amateur Sports Act, the USOPC Bylaws and certain USOPC policies, in order to demonstrate ongoing commitment to the values and requirements of membership in the USOPC. The scope includes the 2019 Compliance Checklist certified by USA Diving and the supporting documents provided by USA Diving. Compliance Checklist procedures are designed to verify that certain NGB policies are in place. This Compliance Checklist does not conclude on the effectiveness of any policies reviewed. Additional audit procedures are completed on select NGBs each year to verify various policies and processes are being followed.

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

	Question	Status
<b>Governance/Managerial</b>		
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
4	Are you compliant with the insurance requirements as set forth in Exhibit 2 of the most recent PPA?	Compliant
5	Have you submitted, in a timely fashion, data and information on the participation of women, individuals with disabilities and racial and ethnic minorities in your athletic activities and administration?	Compliant
6	Have you submitted to the USOPC for review and approval a plan to encourage the participation of men, women, individuals with disabilities and racial and ethnic minorities in your amateur athletic activities and administration?	Compliant
<b>Financial Capability</b>		
7	Are you recognized by the IRS as a tax-exempt organization?	Compliant
8	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
9	Do you have your three most recent IRS Form 990s on your website?	Compliant
10	Have you completed and posted on your website your three most recent annual audited financial statements?	Compliant
11	Do you have written financial policies and procedures?	Compliant
12	Do you have an approval and/or review process for cash disbursements?	Compliant

13	Do you provide frequent (monthly or quarterly) financial statements to your board or designated committee?	Compliant
14	Do you have a board-approved annual budget?	Compliant
15	Have you spent USOPC funds as required by the funding agreements in the previous 12 months?	Compliant
16	Do you maintain accurate accounting records in accordance with accounting principles generally accepted in the USA (GAAP)?	Compliant
<b>Due Process and Athlete Representation</b>		
17	Do you provide procedures for the prompt and equitable resolution of grievances of your members?	Compliant
18	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
19	Do you require at least 20% athlete representation on grievance panels?	Compliant
20	Do you have at least 20% athlete representation on your board of directors?	Compliant
21	Do you have at least 20% athlete representation on your budget committee?	Compliant
22	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
23	If you govern or operate a Paralympic Sport, do you have a Paralympic Sport Advisory Group that includes a combination of coaching staff, high performance staff and at least 20% Paralympic athlete representation to craft and approve selection procedures and to serve in an advisory capacity for high performance planning?	Compliant
<b>Athlete Safety</b>		
24	Do you have language in your bylaws that provides jurisdictions to the U.S. Center for Safe Sport?	Compliant
25	Do you have a USOPC-compliant Athlete Safety Policy?	Compliant
<b>Anti-Doping</b>		
26	Do you inform Athletes, Athlete Support Personnel and other Persons in your sport of the USOPC National Anti-Doping Policy and of the USADA Protocol?	Compliant
27	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
28	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?	Compliant
29	Do you have an identified staff member to act as a liaison with USADA?	Compliant

## DEFICIENCIES

**13. Do you provide frequent (monthly or quarterly) financial statements to your board or designated committee?**

While USA Diving submitted minutes to support that financial matters were discussed within its Finance and Audit Committee, the minutes do not give enough detail of organizational financial updates during those meetings. Additionally, USA Diving did not provide any reports or documents to review which would support that financial updates were sufficiently given during meetings.

**USA Diving Action Plan:** USA Diving will provide H1 (half of year or Q1 and Q2) 2019 financials to its Finance & Audit committee at its meeting on Sunday, September 8, 2019 and to the board on Friday, September 13, 2019. Moving forward, USA Diving will provide quarterly financials to the board and F&A Committee on a quarterly basis, as well as event level, grant level and other reports to support these consolidated statements.

**USOPC Status Update:** Based on the board minutes and financial reports submitted, this deficiency is remedied as of March 25, 2020.

**15. Have you spent USOPC funds as required by the funding agreements in the previous 12 months?**

According to the audit report for USA Diving, dated July 30, 2019, USA Diving did not spend funds as required by funding agreements and is working with the USOPC to determine the course of action for the \$15,000 in disallowed funds.

**USA Diving Action Plan:** USA Diving is working with Sports Performance at the USOPC to create an appropriate plan for the use or return of these funds.

**USOPC Status Update:** USA Diving repaid all disallowed funds to the USOPC and is considered compliant as of January 23, 2020.

**18. 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?**

While USA Diving's Bylaws, Article 11, Section 11.2 provides for an opportunity for a hearing before declaring an individual ineligible to participate, Article 34 of Subpart D has several presumptive penalties where a hearing is not provided. For example, Article 34, Section 34.6, "Level V Penalty" states, "A violation will result in a suspension from all national and international competition for one year." Therefore, it is not clear if an individual would be provided an opportunity for a hearing pursuant to Section 11.2.

**USA Diving Action Plan:** USA Diving will re-write the above-mentioned articles to clarify that a hearing will take place.

**USOPC Status Update:** USA Diving has updated its bylaws to address this deficiency and is considered compliant as of April 15, 2020.

**20. Do you have at least 20% athlete representation on your board of directors?**

While USA Diving requires 20% athlete representation, according to Article 7.5, page 32, "The Corporation's Athlete Representatives shall be elected by those athletes participating in the USA Diving National Championships."; however, voting should be open to all eligible athletes. The representative group of athletes electing/approving athlete representatives is limited to USA Diving National Championship participation and this group does not meet the requirements of USOPC Bylaws, Section 8.8.5.

**USA Diving Action Plan:** *USA Diving will re-write the above-mentioned articles to change who the athletes are elected from.*

**USOPC Status Update:** USA Diving has updated its Bylaws to address this deficiency and is compliant as of March 27, 2020.

**21. Do you have at least 20% athlete representation on your budget committee?**

While USA Diving requires 20% athlete representation on the committee, according to Article 7.5, page 32, "The Corporation's Athlete Representatives shall be elected by those athletes participating in the USA Diving National Championships."; however, voting should be open to all eligible athletes. The representative group of athletes electing/approving athlete representatives is limited to USA Diving National Championship participation and this group does not meet the requirements of USOPC Bylaws, Section 8.8.5.

**USA Diving Action Plan:** *Moving forward, the Athlete members of our Board of Directors will approve Athlete Reps to all committees. USA Diving will update our bylaws accordingly.*

**USOPC Status Update:** USA Diving has updated its Bylaws to address this deficiency. They are compliant as of March 27, 2020.

**22. 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?**

While USA Diving requires 20% athlete representation on the committee, according to Article 7.5, page 32, "The Corporation's Athlete Representatives shall be elected by those athletes participating in the USA Diving National Championships."; however, voting should be open to all eligible athletes. The representative group of athletes electing/approving athlete representatives is limited to USA Diving National Championship participation and this group does not meet the requirements of USOPC Bylaws, Section 8.8.5.

**USA Diving Action Plan:** *Moving forward, the Athlete members of our Board of Directors will approve Athlete Reps to all committees. USA Diving will update our bylaws accordingly.*

**USOPC Status Update:** USA Diving has updated its Bylaws to address this deficiency. They are compliant as of March 27, 2020.

**25. Do you have a USOPC-compliant Athlete Safety Policy?**

USA Diving was deemed deficient for the following:

USA Diving's Athlete Safety Policy (ASP) does not clearly identify to whom the policy applies.

USA Diving's ASP does not provide for anonymous reporting.

USA Diving requires a filing fee along with complaints filed under Subpart C, Article 22, 22.6. There is not a clear exception for reports filed regarding athlete safety.

USA Diving's ASP does not state that training is based on the U.S. Center for SafeSport's information (or additional NGB materials).

**USA Diving Action Plan:**

- *USA Diving will re-write its ASP to clearly identify to whom the policy applies.*
- *USA Diving will re-write its ASP to ensure that the grievance process doesn't require a signature.*
- *USA Diving will re-write its ASP to clarify that the fee does not apply to Safe Sport claims.*
- *USA Diving will re-write its ASP stating that training is based on the U.S. Center for SafeSport's information (or additional USA Diving Materials).*

**USOPC Status Update:** USA Diving updated its athlete safety policy to address all deficiencies. They are considered compliant as of January 23, 2020.

## 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.

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

USA Diving accounts for arbitration procedures in Bylaw, Article 1, Section 1.3, however makes no reference to binding arbitration in its grievance procedures (Article 22). It would provide clarity if NGBs agree to binding arbitration in its grievance procedures.

**18. 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?**

Auditor reviewed USA Diving's Background Screening Policy. Individuals are afforded a chance to dispute the accuracy of the reported information, however, if the information is accurate, they are not afforded any further opportunity to be heard and are automatically disqualified.

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 USOPC is concerned that USA Diving's automatic disqualification rule may be inconsistent with that requirement.

The USOPC recognizes that USA Diving has adopted the position that successful completion of a background check is a membership requirement and no hearing is required when an applicant is automatically disqualified from membership based on a background check finding. However, because an individual must be a member with USA Diving to participate, this interpretation could be challenged. If

such a challenge was raised, the USOPC would support that challenge being heard by a Section 10 hearing panel, for its consideration and final resolution.

## **CONCLUSION**

USA Diving updated its policies and is now fully compliant with the USOPC's Compliance Checklist. The Compliance Checklist does not conclude on the effectiveness of any policies reviewed. Additional audit procedures are completed on select NGBs each year to verify various policies and processes are being followed.