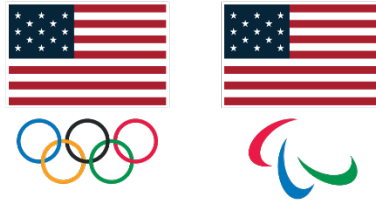


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# United States Olympic & Paralympic Committee

## Audit & Organizational Advancement



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**Report for:**  
**USA Swimming**

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

**Dated:**  
**January 31, 2020**



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

January 31, 2020

Tim Hinchey III  
Chief Executive Officer  
USA Swimming

Dear Tim,

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

USA Swimming 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; and anti-doping. Initially one deficiency was identified in the area of anti-doping; however, with updates to its Rulebook, USA Swimming remedied the deficiency and is now fully compliant with the USOPC 2019 Compliance Checklist. There is also an additional observation in the report that when implemented, will improve the grievance procedures.

As of September 13, 2019, the USOPC Board approved the revised the NGB and HPMO Athlete Safety Policy. In an effort to align the Compliance Checklist process with the NGB and HPMO Athlete Safety Policy, eliminate redundancies, and ensure clarity as it relates to what entity is solely responsible for auditing SafeSport requirements, the auditing of athlete safety requirements now falls under the jurisdiction of the U.S. Center for SafeSport.

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  
Wendy Guthrie  
Onye Ikwuakor

Chris McCleary  
Denise Parker

Robert D. Vincent  
Natalie Coughlin Hall  
Lucinda McRoberts



# 2019 COMPLIANCE CHECKLIST REPORT

USA Swimming

## OBJECTIVE AND SCOPE

The objective of the review is to verify USA Swimming 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 Swimming and the supporting documents provided by USA Swimming. 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 Swimming. 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?	*Transitioned to U.S. Center for SafeSport
25	Do you have a USOPC-compliant Athlete Safety Policy?	*Transitioned to U.S. Center for SafeSport
<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

\*The U.S. Center for SafeSport has taken jurisdiction over the auditing of Athlete Safety requirements. To that end, as of 9/13/2019, the USOPC will no longer review Athlete Safety requirements which fall under the Center's jurisdiction.

## DEFICIENCY

***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?***

Article 303.3 in USA Swimming's 2019 Rulebook only informs "athlete members" of their required compliance with anti-doping rules. The USA Swimming Waiver and Release form provided for review, which includes a statement on doping, appears to apply only to competitors, and does not mention athlete support personnel and other persons.

***USA Swimming Action Plan:*** *USA Swimming informs its members of applicable anti-doping rules in three main areas: (i) the introductory Doping Control section of the Rulebook (e.g., p. 2 of the 2019 Rulebook); (ii) Article 303.3 of the Rulebook; and (iii) the USA Swimming Waiver & Release Form. In order to inform athletes, athlete support personnel and other persons in our sport of the USOPC National Anti-Doping Policy and of the USADA Protocol, USA Swimming will, respectively: (i) update the Doping Control section of the 2020 Rulebook as reflected in attachment 1; (ii) submit legislation to its House of Delegates to update Article 303.3 of the Rulebook as reflected in attachment 2; and (iii) update the USA Swimming Waiver & Release agreement, effective immediately.*

**USOPC Status Update:** USA Swimming updated its online Rulebook to include USADA Language in the Doping Control Section. USA Swimming is compliant as of January 30, 2020.

## **ADDITIONAL OBSERVATION**

During the review we identified an additional area for improvement. The additional observation does not impact the compliant status but could impact it in the future.

***Do your grievance procedures provide for fair notice and opportunity for a hearing to any athlete, coach, trainer, manager, administrator or official before declaring the individual ineligible to participate? 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 Swimming's Background Check Policy. USA Swimming's Background Check Policy divides any findings that could lead to disqualification into two categories: "Potential Disqualifiers" (Eligible for Appeal) and "Automatic Disqualifiers" (Eligible for Dispute). Individuals in the Eligible for Appeal category are afforded an opportunity to be heard before their application for membership is approved or denied. However, individuals with background check findings that place them in the Eligible for Dispute category are only afforded a chance to dispute the accuracy of the reported information. 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 Swimming's automatic disqualification rule may be inconsistent with that requirement.

The USOPC recognizes that USA Swimming 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 Swimming 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**

With updates to its Rulebook, USA Swimming 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.