
United States Olympic & Paralympic Committee

Audit & Organizational Advancement



Report for:
US Figure Skating

Review of:
Compliance Checklist

Dated:
August 8, 2019



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

August 8, 2019

David Raith
Executive Director
US Figure Skating

Dear David,

Enclosed is the United States Olympic & Paralympic Committee's (USOPC) report on the 2018 Compliance Checklist for US Figure Skating (USFS). We want to express our appreciation for the time you and your staff spent completing the Checklist and providing documents during the review.

USFS 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; SafeSport; and anti-doping. There were initially four deficiencies identified in due process and SafeSport, however, with updates to its policies, USFS is currently compliant with the USOPC's Compliance Checklist, except for the questions related to Athlete Representation, which have been placed in a stayed status; therefore, a determination of compliance could not be made. An additional observation is also in the report that, when implemented, would improve the grievance policies.

The report will be presented to the USOPC Athlete and NGB Engagement Committee and be made available on the Team USA website. 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,

Bridget Toelle, CPA, CIA
Vice President
Audit & Organizational Advancement

Rich Wright
Staff Auditor

cc: Rick Adams Chris McCleary Anne Cammett
Wendy Guthrie Denise Parker Mark Ladwig
Onye Ikwuakor



COMPLIANCE CHECKLIST REPORT

US Figure Skating

OBJECTIVE AND SCOPE

The objective of the review is to verify USFS 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 2018 Compliance Checklist certified by USFS and the supporting documents provided by USFS. 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 USFS. For any deficiencies, see the explanations and action plans after the chart.

	Question	Answer
Governance / Managerial		
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
Financial Capability		
4	Are you recognized by the IRS as a tax-exempt organization?	Compliant
5	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
6	Do you have your three most recent IRS Form 990s on your website?	Compliant
7	Have you completed and posted on your website your three most recent annual audited financial statements?	Compliant
8	Do you have written financial policies and procedures?	Compliant
9	Do you have an approval and/or review process for cash disbursements?	Compliant
10	Do you provide frequent (monthly or quarterly) financial statements to your board or designated committee?	Compliant
11	Do you have a board-approved annual budget?	Compliant
12	Have you spent USOPC funds as required by the funding agreements in the previous 12 months?	Compliant
Due Process and Athlete Representation		
13	Do you provide procedures for the prompt and equitable resolution of grievances of your members?	Compliant
14	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

15	Do you require at least 20% athlete representation on grievance panels?	Stayed
16	Do you have at least 20% athlete representation on your board of directors?	Stayed
17	Do you have at least 20% athlete representation on your budget committee?	Stayed
18	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?	Stayed
SafeSport		
19	Do you have USOPC SafeSport language in your bylaws that provides jurisdictions to the U.S. Center for Safe Sport?	Compliant
20	Do you have a USOPC-compliant Athlete Safety Policy?	Compliant
21	Does your policy require criminal background checks, at least every two years, for those individuals that are formally authorized, approved or appointed (a) to a position of authority over, or (b) to have frequent contact with athletes?	Compliant
22	Does your policy require education and training specific to SafeSport for those individuals that are formally authorized, approved or appointed (a) to a position of authority over, or (b) to have frequent contact with athletes?	Compliant
23	Do you have a grievance process that is materially free of bias and conflicts of interest for SafeSport allegations, and includes the opportunity for review by a disinterested individual or body?	Compliant
Anti-Doping		
24	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
25	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
26	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
27	Do you have an identified staff member to act as a liaison with USADA?	Compliant

DEFICIENCIES

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

USFS does not have provide for grievances against the NGB pursuant to a violation of the Act or USOPC Bylaws.

USFS Action Plan: *In practice, U.S. Figure Skating does, and has always, provided for grievances against the NGB. U.S. Figure Skating will propose a Bylaw amendment to Article XXV, Section 1, to clarify that members may file a grievance against U.S. Figure Skating.*

This Bylaw amendment will be voted on by the membership at the annual Governing Council meeting, May 4-5, 2019.

USOPC Status Update: USFS updated Article XXV to include grievances against USFS. This update cures the deficiency and was verified on May 17, 2019. These bylaws do not take effect until July 1, 2019.

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?

As part of fair notice, USFS omits a process for which the grievant would be provided with all the facts and charges from the respondent's answer. Additionally, the respondent would not receive additional attachments that may be presented to the hearing panel by the grievant for consideration in their decision. USFS needs to revise GCR 3.02 and 3.03 to provide all parties with all facts and charges presented to the decision maker, providing fair notice and the opportunity to be heard at the hearing.

Additionally, GCR 3.05 A allows for a hearing to be conducted in writing and mandates all communications to the hearing panel must be in writing without mention of a real-time response for parties in the grievance process at a live hearing. Further, GCR 3.05 makes no reference to providing an opportunity for all parties to present evidence in real-time before the decision is rendered by the hearing panel.

USFS Action Plan: *U.S. Figure Skating has done this in practice for over 20 years and has never been challenged. Language will be added to the above referenced rules to support our practice of providing all presented materials to all parties. Further, language will be added to support our practice of parties' ability to present evidence in real time and the clarify the real-time response at a hearing.*

These rule changes will be presented to our membership, as a vote, at the 2019 Governing Council meeting, May 4-5, 2019.

USOPC Status Update: USFS updated GCR 3.00, 3.02, 3.03 and 3.05 regarding fair notice and an opportunity to be heard. These updates cure the deficiency and was verified on August 6, 2019. However, Audit suggests removing the reference to conducting hearings "by writing" in GCR 3.05 (A) to ensure there is no confusion regarding how the hearings will be conducted and the procedures or implication that real time response is precluded due to the "by writing" language. USFS should also consider expanding GCR 3.05 (D) to explain that communications during the hearing proceedings need

not be in writing.

Do you require at least 20% athlete representation on grievance panels?

In practice USFS requires 20% athlete representation on hearing panels, however, USFS was deemed deficient because the qualifying events as listed in USFS' Bylaws Article XXII, Section 1 and 2, page 32, do not align with the USOPC's Bylaws.

USFS Action Plan: *U.S. Figure Skating's definition of an athlete on grievance panels is compliant with §220522 (10) and (11)(B) of the Ted Stevens Olympic and Amateur Sports Act. In accordance with Section 8.8.6 of the USOPC Bylaws, U.S. Figure Skating has submitted an "Application for Review," to the CEO of the U.S. Olympic Committee to allow us to use the current qualifying events, as the USOPC's athlete requirements are too narrow to provide an adequate pool of athletes that represent our membership.*

Our "Application for Review," is included as an attachment.

USOPC Status Update: A stay of determination has been placed on this pending possible USOPC bylaw changes.

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

USFS does have 20% athlete representation on its Board. However, USFS was deemed deficient because the qualifying events as listed in USFS' Bylaws Article XXII, Section 1 and 2, page 32, do not align with the USOPC's Bylaws.

USFS needs to revise this section accordingly. Subsequently, athlete representatives are not elected by eligible athletes.

USFS Action Plan: *U.S. Figure Skating's definition of an athlete on the Board of Directors is compliant with §220522 (10) and (11)(B) of the Ted Stevens Olympic and Amateur Sports Act. In accordance with Section 8.8.6 of the USOPC Bylaws, U.S. Figure Skating has submitted an "Application for Review," to the CEO of the U.S. Olympic Committee to allow us to use the current qualifying events, as the USOPC's athlete requirements are too narrow to provide an adequate pool of athletes that represent our membership.*

Our "Application for Review," is included as an attachment.

USOPC Status Update: A stay of determination has been placed on this pending possible USOPC bylaw changes.

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

Two of the four athletes on the Finance Committee did not compete in a qualifying event within the specified timeframe as required by the USOPC's Bylaws. Therefore, the Finance committee only has 15% athlete representation.

The qualifying events as listed in USFS' Bylaws Article XXII, Section 1 and 2, page 32, do not align with the USOPC's Bylaws. USFS needs to revise this section accordingly.

Additionally, the Athletes Advisory Committee (AAC) makes athlete recommendations to the president for appointment to committees. The USOPC's Bylaws require that athlete representation on committees and

task forces (other than Designated Committees) shall be selected by the NGB with the approval of athletes or a representative group of athletes.

USFS' AAC recommends the athlete representatives instead of approving appointments. The final approval of athlete representatives should be the responsibility of the athletes or a representative group of athletes.

USFS Action Plan: *U.S. Figure Skating's definition of an athlete on the Budget / Finance Committee is compliant with §220522 (10) and (11)(B) of the Ted Stevens Olympic and Amateur Sports Act. In accordance with Section 8.8.6 of the USOPC Bylaws, U.S. Figure Skating has submitted an "Application for Review," to the CEO of the U.S. Olympic Committee to allow us to use the current qualifying events, as the USOPC's athlete requirements are too narrow to provide an adequate pool of athletes that represent our membership.*

Our "Application for Review," is included as an attachment.

Additionally, we will adjust our process to have the AAC both recommend athlete members to committees on the front end and approve the final list after appointed. A rule change will be presented to membership at the 2019 Governing Council meeting, May 4-5, 2019.

USOPC Status Update: A stay of determination has been placed on this pending possible USOPC bylaw changes.

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?

At least one athlete from each of the selection committees for the Singles, Dance, and Pairs Disciplines did not compete in a qualifying event within the specified timeframe as required by the USOPC's Bylaws.

Therefore, the Selection Committees did not have 20% athlete representation. The qualifying events as listed in USFS' Bylaws Article XXII, Section 1 and 2, page 32, do not align with the USOPC's Bylaws. USFS needs to revise this section accordingly.

Additionally, the Athletes Advisory Committee (AAC) makes athlete recommendations to the president for appointment to committees. The USOPC's Bylaws require that athlete representation on committees and task forces (other than Designated Committees) shall be selected by the NGB with the approval of athletes or a representative group of athletes.

USFS' AAC recommends the athlete representatives instead of approving appointments. The final approval of athlete representatives should be the responsibility of the athletes or a representative group of athletes.

USFS Action Plan: *U.S. Figure Skating's definition of an athlete on the International Committee is compliant with §220522 (10) and (11)(B) of the Ted Stevens Olympic and Amateur Sports Act. In accordance with Section 8.8.6 of the USOPC Bylaws, U.S. Figure Skating has submitted an "Application for Review," to the CEO of the U.S. Olympic Committee to allow us to use the current qualifying events, as the USOPC's athlete requirements are too narrow to provide an adequate pool of athletes that represent our membership.*

Our "Application for Review," is included as an attachment.

Additionally, we will adjust our process to have the AAC both recommend athlete members to committees on the front end and approve the final list after appointed. A rule change will be presented to membership at the 2019 Governing Council meeting, May 4-5, 2019.

USOPC Status Update: A stay of determination has been placed on this pending possible USOPC bylaw changes.

Do you have a USOPC-compliant Athlete Safety Policy?

USFS was deemed deficient because USFS's SafeSport policy does not contain a retaliation or whistleblower clause. USFS's SafeSport policy does not explicitly state who the policy applies to.

Additionally, USFS' Safety Policy does not provide its own grievance procedures or point to its existing procedures in its Bylaws.

USFS Action Plan: U.S. Figure Skating will make the adjustments noted below to our SafeSport Handbook. The updates will be made by March 23, 2019:

1. A whistleblower clause will be added.
2. On page 3, in the Introduction, a sentence will be added to clarify that the SafeSport policy applies to all members of U.S. Figure Skating.

USOPC Status Update: USFS updated the SafeSport handbook to address who the policy applies to, adding whistle blower language, and pointing to existing grievance procedures in its bylaws. This update cures the deficiency and was verified on July 2, 2019.

Do you have a grievance process that is materially free of bias and conflicts of interest for SafeSport allegations, and includes the opportunity for review by a disinterested individual or body?

USFS was deemed deficient for the lack of a grievance process as referenced above in the Athlete Safety Policy question.

USFS Action Plan: U.S. Figure Skating will make the adjustment noted below to our SafeSport Handbook. The updates will be made by March 23, 2019:

1. On page 19, under the Section, "V. REPORTING SAFESPORT CONCERNS", an additional Part 5 will be added to include a section on the process that will be followed once a SafeSport Report has been followed. This will direct the reader to U.S. Figure Skating Rules ECR 4.00 – 4.13, and GCR 1.00 – 10.00, which explain in detail the process used for SafeSport allegations.

Further, a note will be made in this section that there is no fee to file a SafeSport complaint.

USOPC Status Update: USFS updated its SafeSport Program Handbook to address this deficiency. The updated SafeSport Program Handbook points to USFS' existing grievance procedures. This update cures the deficiency and was verified on May 23, 2019.

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.

Does the policy include a process to hear grievances regarding the NGB's compliance pursuant to the Act or USOPC Bylaws?

USFS accounts for arbitration procedures in Article XXV, Section 1C(v)(a), however, makes no reference to binding arbitration pursuant to Article II(K). It would provide clarity if NGBs agree to binding arbitration in its grievance procedures.

USFS Action Plan: *This will be added to our Bylaws and presented to the membership to be voted on at the 2019 Governing Council meeting, May 4-5, 2019.*

USOPC Status Update: USFS will incorporate the parallel language from Article II, Sec (K), into Article XXV, Section 1 (C) as a bylaw amendment to be presented to the 2020 U.S. Figure Skating Governing Council. This item will be addressed for the 2019 Compliance Checklist.

CONCLUSION

With the updates to its policies, USFS is currently compliant with the USOPC's Compliance Checklist, except for the questions related to Athlete Representation, which have been placed in a stayed status; therefore, a determination of compliance could not be made. 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.