
United States Olympic & Paralympic Committee

Audit and Organizational Advancement



Report for:
USA Water Ski and Wake Sports, Inc.

Review of:
Compliance Checklist

Dated:
July 2, 2019



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

July 2, 2019

Nate Boudreaux
Executive Director
USA Water Ski and Wake Sports, Inc.

Dear Nate,

Enclosed is the United States Olympic and Paralympic Committee's (USOPC) report on the 2018 Compliance Checklist for USA Water Ski and Wake Sports, Inc. (USA-WSWS). We want to express our appreciation for the time you and your staff spent completing the Checklist and providing documents during the review.

USA-WSWS was compliant as it specifically relates to the compliance checklist report for the questions outlined below in the following areas: financial capability. There were eight deficiencies identified in the initial review in the areas of governance/managerial; due process and athlete representation; SafeSport; and anti-doping. With updates to their policies, USA-WSWS remedied seven deficiencies with one remaining in SafeSport. There are also additional observations in the report that when implemented, would improve the grievance procedures and policies.

The report will be presented to the UOSPC 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,

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

Rich Wright
Staff Auditor

cc: Rick Adams Chris McCleary Tim Cullen
Wendy Guthrie Denise Parker Alex S. Lauretano
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COMPLIANCE CHECKLIST REPORT

USA Water Ski and Wake Sports, Inc.

OBJECTIVE AND SCOPE

The objective of the review is to verify USA-WSWS is in compliance with key elements of the Ted Stevens Olympic and Amateur Sports Act, the UOSPC Bylaws and certain UOSPC policies, in order to demonstrate ongoing commitment to the values and requirements of membership in the UOSPC. The scope includes the 2019 Compliance Checklist certified by USA-WSWS and the supporting documents provided by USA-WSWS. 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-WSWS. For any deficiencies, see the explanations and action plans after the chart.

	Question	Status
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?	Compliant
16	Do you have at least 20% athlete representation on your board of directors?	Compliant
17	Do you have at least 20% athlete representation on your budget committee?	Compliant
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?	Compliant
SafeSport		
19	Do you have USOPC SafeSport language in your bylaws that provides jurisdictions to the U.S. Center for Safe Sport?	Deficient
20	Do you have a USOPC-compliant Athlete Safety Policy?	Compliant
21	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
22	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
23	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
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 have a code of conduct for your employees, members, board of directors and officers?

USA-WSWS' Code of Conduct only applies to U.S. Team members and staff, but not the board of directors and officers.

USA-WSWS Action Plan: USA-WSWS will add language to the current code of conduct to ensure that it also applies to the board of directors and officers.

USOPC Status Update: USA-WSWS updated its Code of Conduct to include the required entities identified as "Colleagues". USA-WSWS is compliant with this requirement as verified by audit on April 29, 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?

USA-WSWS is considered deficient because Article IX Complaint Procedures in the Bylaws, does not explain how fair notice is given to a responding party, such as providing a notice of the charges and requested remedy to the respondent, and providing all parties with facts and charges presented to the hearing panel.

USA-WSWS Action Plan: USA-WSWS is working to add language similar to the below within Article IX Complaint Procedures. The below is a working draft.

“USA-WSWS shall communicate the decision to the member(s) and/or individuals involved describing the allegations, the decision of the Judicial Committee and the proposed penalty to be imposed. The Executive Director will provide the chair of the Judicial Committee a copy of each of the following documents: (i) the Complaint; (ii) all materials filed with the Complaint, if any; and (iii) any relevant documents in the possession of NGB. The Judicial Committee shall ensure that all relevant parties have been provided with the relevant materials. The Judicial Committee may also determine that individuals not listed by either the Complainant or NGB as an affected party shall be given notice. Any party named as an affected party shall be eligible to participate fully in the Grievance, including the Hearing. Any party notified of the Complaint as a potentially affected party shall be bound by the decision of the Hearing Panel, even if he or she chooses not to participate.

USOPC Status Update: USA-WSWS updated Article IX of its Bylaws to explain how fair notice is provided. USA-WSWS is compliant as of April 29, 2019.

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?

According to USA-WSWS, one of the athlete representatives on the selection committee was seated in 2008. His qualifying event in 2004 does not meet the requirements stated of athlete representatives in Section 8.8.2 of the USOPC Bylaws.

USAWS Action Plan: USA-WSWS will investigate the eligibility of Bill Bowness who currently sits on the selection committee. If it is determined the Mr. Bowness is ineligible to serve as an athlete representative

a new athlete representative will be selected.

USOPC Status Update: USA-WSWS updated its International Activities Committee athlete representative. USA-WSWS is compliant with this requirement for the Selection Committee as of April 29, 2019.

Do you have USOPC SafeSport language in your bylaws that provides jurisdictions to the U.S. Center for Safe Sport?

USA-WSWS does not provide jurisdiction to the U.S. Center for SafeSport (USCSS) in its Bylaws.

USA-WSWS Action Plan: USA-WSWS will work to add the below draft language into its Bylaws.

U. S. Center for SafeSport. As a member National Governing Body (NGB) of the United States Olympic Committee (USOPC), NGB is required to adhere to the SafeSport rules and regulations of the USOPC. Additionally, USOPC Bylaw Section 8.7(l), as may be amended from time to time, provides that, as a condition of membership in the USOPC, each NGB shall comply with the policies and procedures of the independent SafeSport organization designated by the USOPC to investigate and resolve SafeSport violations. The USOPC has designated the U.S. Center for SafeSport (Center) as that organization. The current SafeSport rules, policies and procedures are available on-line at the following websites: www.safesport.org and www.teamusa.org/usa-triathlon/usat-for-me/athlete-resources/safesport. As a condition of membership and a condition for participation in any NGB competition or event, each NGB member and each athlete, coach, trainer, agent, athlete support personnel, medical or para-medical personnel, team staff, official and other designated person, agrees to comply with and be bound by the SafeSport rules, policies and procedures of the Center and to submit, without reservation or condition, to the jurisdiction of the Center for the resolution of any alleged violations of those rules, policies and procedures, as may be amended from time to time. To the extent any NGB rule is inconsistent with the rules of the Center, such rule is hereby superseded.

Reporting any allegation to the Center or NGB does not satisfy any legal obligation required under federal or state law. All persons covered by this policy, in addition, are required to report to the appropriate law enforcement officials any conduct suspected to be criminal.

USOPC Status Update: USA-WSWS will add language to its Bylaws to provide for the jurisdiction to the U.S. Center for SafeSport and will be submitted for approval during the next Board of Directors meeting in January 2020.

Do you have a USOPC-compliant Athlete Safety Policy?

USA-WSWS was deemed deficient for the following:

USA-WSWS does not provide a direct contact on its website for SafeSport complaints.

USA-WSWS does not clearly identify how to report non-sexualized SafeSport complaints. In practice, page 29 contains the following language, "do all of the following", however, USA-WSWS should update this section to clearly identify how to report sexualized versus non-sexualized (bullying, hazing, etc.) to USA-WSWS.

USA-WSWS Action Plan: USA-WSWS will add a direct link on its website to SafeSport for members to report a concern and/or incident: https://cm.maxient.com/reportingform.php?SafeSport&layout_id=0

Will look to add additional language to pg. 29 of the SafeSport handbook to explain the procedures around reporting both sexualized and non-sexualized incidents. For example:

- 1- Sexualized complaint – report directly to SafeSport (and/or authorities)
- 2- Non-Sexualized – Detail processes on who to report to the NGB.

USOPC Status Update: USA-WSWS updated its SafeSport Handbook and website to address the bullets for this deficiency. Auditor verified these items are cured as of May 22, 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?

USA-WSWS's Safety Policy does not clearly identify grievance procedures for SafeSport complaints which do not fall under jurisdiction of the USCSS. It is unclear if SafeSport allegations follow the existing grievance procedures explained in Article IX of the Bylaws. If SafeSport grievances received are expected to follow those procedures, the USA-WSWS Safety Policy must reference Article IX in the Bylaws to ensure SafeSport grievances follow the existing due process protections for complaints received.

USA-WSWS Action Plan: USA-WSWS will update its Safety Policy to reference Article IX in the Bylaws to ensure SafeSport grievances follow the existing due process protections for complaints. All non-SafeSport related complaints will be addressed through the current USA-WSWS grievance policies.

USOPC Status Update: USA-WSWS updated its SafeSport Handbook to address this deficiency. The auditor verified this item as cured as of May 22, 2019.

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?

USA-WSWS does not inform the above-named groups of the USOPC National Anti-Doping Policy and the USADA Protocol in its bylaws.

USA-WSWS Action Plan: USA-WSWS will add the below language to the respective areas within its Bylaws, membership agreements and licenses.

For Bylaws:

Membership anti-doping obligations.

It is the duty of members of the [NGB] to comply with all anti-doping rules of the [IF], the U.S. Anti-Doping Agency (USADA), and the USOPC including the USADA Protocol for Olympic and Paralympic Movement Testing (USADA Protocol) and all other policies and rules adopted by the [IF], USADA, and the USOPC National Anti-Doping Policy. Members agree to submit to drug testing by the [IF] and/or USADA or their designees at any time and understand that the use of methods or substances prohibited by the applicable anti-doping rules make them subject to penalties including, but not limited to, disqualification and suspension. If it is determined that a member may have committed a doping violation, the member agrees to submit to the results management authority and processes of USADA, including arbitration under the USADA Protocol, or to the results management authority of the [IF] and/or [NGB], if applicable or referred by USADA.

Membership Agreements:

"I understand and agree that the [IF] Anti-Doping Rules and U.S. Anti-Doping Agency Protocol for

Olympic and Paralympic Movement Testing (USADA Protocol) and all other policies and rules adopted by the [IF], USADA, and the USOPC apply to me and that it is my responsibility to comply with those rules. I agree to submit to drug testing at any time and understand that the use of methods or substances prohibited by the applicable anti-doping rules would make me subject to penalties including, but not limited to, disqualification and suspension. If it is determined that I may have committed a doping violation, I agree to submit to the results management authority and processes of USADA, including arbitration under the USADA Protocol, or to the results management authority of the [IF] and/or my national federation, if applicable or referred by USADA.”

Licenses:

“As a USA [NGB] member, I understand and agree that I may be drug tested at any time, that I am subject to and will abide by the USADA Protocol for Olympic and Paralympic Movement Testing, its Annexes, and the USOPC National Anti-Doping Policies, and that any dispute related to the foregoing will be resolved exclusively in arbitration pursuant to the USADA Protocol. Before taking any medications, check the prohibited status at GlobalDRO.com. Also, be sure to download the Supplement 411 app, or visit Supplement411.org to learn how to recognize and reduce the risks related to supplement use. If you have any anti-doping questions, please don't hesitate to call Athlete Express at (866) 601-2632.”

USOPC Status Update: USA-WSWS updated its notification language in its Policies and Procedure document to address the elements as required by USADA. USA-WSWS is compliant with this requirement as of April 29, 2019.

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?

USA-WSWS did not complete its submissions for the second, third, and fourth quarters of required submissions in 2018.

USA-WSWS Action Plan: *USA-WSWS is working with USADA to provide the required submissions in a timely manner.*

USOPC Status Update: USA-WSWS provided email communication from USADA explaining its participation in the new Clean Athlete Program (CAP) which requires an NGB to provide information at USADA's request every 6 months. USA-WSWS is compliant with this requirement and this deficiency is verified remedied on May 10, 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.

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

USA-WSWS accounts for arbitration procedures in Article IX (L), however, makes no reference to binding arbitration in Article IV(A)(9), pursuant to Article IX (L). It would provide clarity if the grievance procedures

(Article IX) reference binding arbitration to ensure all parties are aware that the arbitration is binding.

USOPC Status Update: USA-WSWS will update the language in Article IX in its Bylaws for approval during the next Board of Directors meeting in January 2020.

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

Article IX, Section G does not specify that hearing panel members appointed by the Judicial Committee must be free of conflict of interest, only that the "other" appointed persons be disinterested individuals. All Judicial Committee members appointed to hearing panels should be disinterested.

USOPC Status Update: USA-WSWS will update the language regarding the need for its Judicial Committee to be free of conflict of interest in its Bylaws for approval during the next Board of Directors meeting in January 2020.

CONCLUSION

USA-WSWS must improve its SafeSport to be fully compliant with the USOPC's 2018 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.