
United States Olympic and Paralympic Committee

Audit and Organizational Advancement Department



Report for:
US Sailing

Review of:
Compliance Checklist

Dated:
July 2, 2019



COMPLIANCE CHECKLIST REPORT

US Sailing

OBJECTIVE AND SCOPE

The objective of the review is to verify US Sailing 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 US Sailing and the supporting documents provided by US Sailing. 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 US Sailing. 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?	Compliant
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 provide procedures for the prompt and equitable resolution of grievances of your members?

In the Administrative, Discipline, and Grievance Proceedings section of the US Sailing Regulations, it is not required for a Hearing Panel to be constituted with disinterested individuals.

US Sailing Action Plan: Add sentence to US Sailing Regulation 15.03 (A) “The Hearing Panel will be constituted with disinterested individuals.”

USOPC Status Update: US Sailing updated Section 15.03 (A) of its Regulations to provide for disinterested individuals on hearing panels. Auditor verified US Sailing cured this deficiency on May 30, 2019.

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

US Sailing currently has eligible athlete representatives (reps) on its Board and meets the minimum 20% requirement. However, US Sailing Bylaws do not comply with Section 8.8.5 of the USOPC Bylaws which require for athlete reps to be directly elected by all athletes who meet the standards set forth in Section 8.8.2 of the USOPC Bylaws.

The current practice, under US Sailing Bylaw 305, is for the nine Elected Directors to be elected by vote of the General Members at the Annual Meeting of US Sailing. Athlete directors being elected by the general membership is not compliant with Section 8.8.5.

US Sailing Action Plan: US Sailing bylaws 302, 303, 304, 305, 402 and 515, will be changed to 1) have the Sailor Athlete Council (SAC) elect the athlete members of the Board, and 2) have the SAC approve the nomination of athletes to all committees requiring athletes to be members.

USOPC Status Update: US Sailing updated the following Bylaws: 302, 303, 304, 305, 402, and 515 to require athlete representatives on the Board to be directly elected by athletes on the Sailor Athlete Council (SAC) and for the SAC to approve other athlete representative appointments. Auditor verified US Sailing cured this deficiency on May 30, 2019.

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

US Sailing is reconstituting its budget committee and, does not currently have a budget committee. US Sailing self-identified this deficiency in the Compliance Checklist survey.

Additionally, according to US Sailing’s bylaws, the athlete representatives appointed to the budget committee are approved by the Board of Directors. Athlete representatives on designated or special committees should be approved by athletes or a representative group of athletes in accordance with USOPC Bylaws, Section 8.8.5.

US Sailing Action Plan: Add to Regulation 6.02 a requirement for the SAC to approve all members of committees listed in Bylaw 511, Section 7(a).

USOPC Status Update: US Sailing updated the following Bylaws: 302, 303, 304, 305, 402, and 515 to require the SAC to approve athlete representative appointments to committees. Auditor verified US Sailing cured this deficiency on May 30, 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?

In practice, US Sailing is compliant with the 20% athlete representation requirement on its selection committees, however, these members are not approved by the Sailor Athlete Council, they are instead approved by the Board of Directors. Athlete representatives on designated or special committees should be approved by athletes or a representative group of athletes in accordance with USOPC Bylaws, Section 8.8.5.

US Sailing Action Plan: included in #17 above.

USOPC Status Update: US Sailing updated the following Bylaws: 302, 303, 304, 305, 402, and 515 to require the SAC to approve athlete representative appointments to committees. Auditor verified US Sailing cured this deficiency on May 30, 2019.

Do you have a USOPC-compliant Athlete Safety Policy?

US Sailing was deemed deficient for the following:

US Sailing's Safety Policy does not clearly state to whom the policy applies. It is a requirement in the USOPC NGB Athlete Safety Policy, that the policy is to apply to employees, athletes designated to the USADA registered testing pool, individuals formally authorized, approved, or appointed to a position of authority over or to have frequent contact with athletes.

US Sailing Action Plan: Replace wording on the Covered List to say, "The US Sailing and SafeSport policies apply to the following people:"

USOPC Status Update: US Sailing updated its Covered List language to clearly identify who the policy applies to. Auditor verified US Sailing cured this deficiency on May 30, 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?

There is not a grievance process separate from Administrative, Discipline, and Grievance proceedings in the US Sailing Regulations. As noted above regarding due process, it is not required for a Hearing Panel to be constituted with disinterested individuals.

US Sailing Action Plan: included in #13 above.

USOPC Status Update: US Sailing updated Section 15.03 (A) of its Regulations to provide for disinterested individuals on hearing panels. Auditor verified US Sailing cured this deficiency on May 30, 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 have a code of conduct for your employees, members, board of directors and officers?

US Sailing encompasses all above-named groups in the Code of Ethics through the use of "representatives of member organizations". US Sailing considers all individuals within the representatives of member organizations grouping to be members, however using the term "all members" as opposed to representatives, provides more clarity to ensure all members are included.

USOPC Status Update: US Sailing is updating its Code of Ethics (Conduct) in the US Sailing Regulations for the 2019 Compliance Checklist review.

Do you have a USOPC-compliant Athlete Safety Policy?

Auditor completed a review of US Sailing's SafeSport program as of November 8, 2018. Auditor identified US Sailing had not yet brought its SafeSport Policy into full compliance with the requirements, which was required by December 2018. As US Sailing's policy was submitted mid-2018 and reviewed in November 2018, these were not identified as deficient but may be considered deficient based on the requirements at the time of the next review. Note, the USOPC NGB ASP is currently under review and requirements may change in 2019. The following was identified during the review of US Sailing's SafeSport policy:

US Sailing needs to ensure its prohibited conduct definitions either match or point to the USCSS definitions.

Covered individuals

US Sailing's Safety Policy needs to specify that background checks and SafeSport training will be completed before contact with athletes begins and in any event within 60 days of the new role.

US Sailing's Safety Policy should clearly publish if the background check requirement does not apply to certain or all people under 18 years of age.

Additionally, it is not yet required in the USOPC's NGB Athlete Safety Policy, however NGBs must comply with the Protecting Youth Victims from Sexual Abuse and Safe Sport Authorization Act of 2017. US Sailing should update policies to ensure it complies with the legislation.

USOPC Status Update: US Sailing finished a rewrite of its SafeSport Handbook and Covered Participants List. Additionally, US Sailing hired a new Compliance Manager to address SafeSport elements for the 2019 Compliance Checklist.

Do you have a USOPC-compliant Athlete Safety Policy?

US Sailing should to update its Safety Policy for the following:

The Safety Policy contains a statement regarding retaliation against anyone reporting harassment or sexual harassment, however a separate Whistleblower or Non-Retaliation section would ensure reporting on any form of misconduct is protected from retaliation.

US Sailing should clearly indicate for reports of sexual misconduct to go directly to the US Center for SafeSport (USCSS). It should also be clearly indicated in the policy that all other claims of misconduct are to be reported directly to US Sailing. This could be more clearly stated in the policy.

It should be explicitly stated in the Safety Policy that the USCSS has jurisdiction over all claims of sexual misconduct.

USOPC Status Update: US Sailing finished a rewrite of its SafeSport Handbook and Covered Participants List. Additionally, US Sailing hired a new Compliance Manager to address SafeSport elements for the 2019 Compliance Checklist.

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?

The US Sailing Safety Policy states that criminal background checks are required for all employees, Board of Directors, Olympic Sailing Committee, select volunteers, coaches, and select independent contractors. However, the policy is somewhat confusing, as some groups are listed twice, and some groups do not appear to fall under the two-year requirement. This should be clarified to ensure all applicable groups are required to complete background checks to the USOPC NGB ASP requirement.

USOPC Status Update: US Sailing finished a rewrite of its SafeSport Handbook and Covered Participants List. Additionally, US Sailing hired a new Compliance Manager to address SafeSport elements for the 2019 Compliance Checklist.

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?

The US Sailing Safety Policy requires education and training in compliance with the USOPC NGB ASP, however, the policy should be clearer as to which groups are required to complete training.

USOPC Status Update: US Sailing finished a rewrite of its SafeSport Handbook and Covered Participants List. Additionally, US Sailing hired a new Compliance Manager to address SafeSport elements for the 2019 Compliance Checklist.

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?

US Sailing's Code of Conduct, Athlete Agreement, and Coaches' contractor packet each contain applicable USADA notification clauses. However, none of the three agreements have template language as provided by USADA and the USOPC, which may better inform athletes, athlete support personnel, and other persons of their responsibilities under USADA.

USOPC Status Update: US Sailing will update these documents with the recommended language provided by the USOPC for the 2019 Compliance Checklist review.

CONCLUSION

With updates to their policies, US Sailing remedied six deficiencies and is now fully compliant with the 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.