

SECTION 9 COMPLAINTS



What is a Section 9 Complaint?

Athletes* may file a Section 9 complaint against an National Governing Body (NGB) alleging they have been denied, or threatened to be denied, with an opportunity to participate in a "protected competition". "Protected competitions" are defined by the USOPC Bylaws and may not apply to every NGB competition.

**References to athletes applies equally to coaches, trainers, managers, officials and other members.*

Dispute Resolution Unit (DRU) Support

 **General Administration**

 **Addressing Filing Requirements**

 **Acknowledgement of Complaint**

 **Informal Resolution**

 **Case Management**

 **Arbitration Support**

Authority & Governance



Ted Stevens Olympic & Amateur Sports Act (the Act): The USOPC is required to facilitate, establish and maintain effective and swift dispute resolution procedures relating to the opportunity of an athlete to participate in protected competition (see Sections 220503(8), 220505(c)(5) and 220509 of the Act).



USOPC Bylaws: Section 9 of the USOPC Bylaws outlines the jurisdiction and scope of Section 9 complaints, timeframes, general filing requirements, and the administration of these proceedings.

ADDITIONAL RESOURCES

- ★ [Section 9 Complaint Form](#)
- ★ [Past Section 9 Cases and AAA Awards](#)
- ★ [AAA Demand Form](#)
- ★ [DRU Framework - Section 9](#)
- ★ [Athlete Ombuds Contact](#)
ombudsman@usathlete.org

CONTACT INFORMATION

Sara Pflipsen | Sr. Counsel
sara.pflipsen@usopc.org

Lucy Denley | DRU Manager
lucy.denley@usopc.org

DRU@usopc.org
www.TeamUSA.org

SECTION 9 COMPLAINTS



What is the Section 9 Process?

Section 9 complaints may impact participation of an upcoming competition so resolution may be expedited. The USOPC does not hold a hearing for these cases, but tries to resolve the complaint informally. If not resolved, the athlete may file a demand for arbitration.

1 Pre-Filing Guidance

Athletes (only) may seek advice from the Athlete Ombuds regarding resolution of participation related disputes.

2 Formal Filing

The athlete may formally file a complaint through TeamUSA.org or by email with DRU and other parties.

3 Complaint Receipt

DRU acknowledges the complaint and provides notice to the NGB and relevant USOPC, AAC, and NGBC representatives.

4 Informal Resolution

The Athlete Ombuds, with DRU support, will attempt to resolve the dispute between the involved parties. If successful, the claim is documented and closed.

5 Demand for Arbitration

If the complaint is not resolved informally, the claimant may file a demand for arbitration with the AAA.

6 Hearing Preparation

DRU assists the AAA as needed with documentation for a final hearing, and observes and/or participates in the hearing.

7 AAA Hearing

A hearing is held on the merits, providing the parties the opportunity to present evidence and argument. Generally held telephonically.

8 Final Decision

The appointed arbitrator makes a final and binding decision. DRU publishes the decision on TeamUSA.org.

Constituent Involvement

- ★ **Athlete**
The claimant alleging they have been denied participation and has the burden to prove that the NGB failed to appropriately apply its rules.
- ★ **NGB**
The respondent who defends their selection process and/or policies and procedures affecting participation rights.
- ★ **Affected Athlete(s)**
Any other athlete(s) who may be affected by the decision has a right to participate in the proceeding.
- ★ **DRU**
DRU manages the Section 9 complaint process.
- ★ **Athlete Ombuds**
The Athlete Ombuds provides guidance to athletes and supports informal resolution efforts.
- ★ **American Arbitration Association (AAA)**
The arbitral organization that administers the arbitration proceeding.

SECTION 9 COMPLAINTS



DRU Support Details



General Administration

DRU oversees the general administration of a Section 9 proceeding to ensure that the complaint is heard in a timely and efficient manner. This involves managing the overall processing of the complaint, from initiation of the matter to the closing of the case. DRU receives the complaint, reviews filing deficiencies, acknowledges the complaint, communicates with the parties, and oversees the general case management, among any other administrative or legal support.



Addressing Filing Requirements

Upon the filing of a Section 9 complaint, in accordance with the requirements in the USOPC Bylaws, DRU is immediately notified of the complaint. DRU reviews the complaint in a timely manner to ensure all filing requirements are met.

If any of the minimum requirements are not met, DRU will notify the claimant of the deficiency and provides them with an opportunity to correct. DRU makes no legal determination or judgment as to the merits of the complaint, but rather ensures that the complaint meets the minimum requirements for filing.

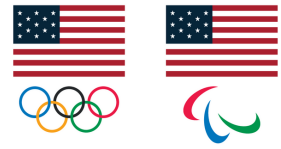
If there are deficiencies with the filing requirements, DRU may direct the claimant to an alternate complaint process that may be more appropriate for their claims. Correcting filing deficiencies and providing general advice on various USOPC complaint processes is done in an effort to ensure that the claims fit within the correct forum to properly bring resolution in a timely manner and are not duplicative of other processes.



Acknowledgement of Complaint

After any potential filing deficiencies have been corrected, DRU formally acknowledges receipt of the Section 9 complaint with the claimant, along with providing notice of the complaint to the NGB in the case. DRU also provides notice of the Section 9 complaint to the USOPC CEO, USOPC General Counsel, Chair of the AAC, relevant sport AAC representative, Chair of the NGBC, the Athlete Ombuds, and relevant USOPC Sport Performance representatives.

The formal acknowledgement letter outlines receipt of the complaint and includes contact information for the Office of the Athlete Ombuds to assist in resolution efforts. Additionally, the acknowledgement letter outlines a timeframe in which the Section 9 complaint will be closed to ensure that if a complaint is not pursued, it will not remain indefinitely.



DRU Support Details



Informal Resolution

In a Section 9 case, DRU may engage with any relevant individuals to the case to informally attempt to resolve the dispute in a satisfactory and mutually beneficial manner.

This includes without limitation the ability of DRU to communicate directly with the parties, including the affected parties and any individual associated with the NGB, AAC reps, the USOPC Sport Performance department, the Office of the Athlete Ombuds (if not confidential) and any other person who may have information relating to the dispute. DRU may seek additional information from the parties or others as it deems relevant to the merits of the complaint and may provide recommendations to any of the parties to assist in the resolution of the dispute. DRU may recommend formal mediation or other dispute resolution mechanisms in order to resolve the issue in a manner fair to any individual who may be impacted by the resolution. DRU acts in a neutral role and does not side with any party in the case with its informal resolution efforts.



Case Management

DRU utilizes an internal case management site to effectively track all details of a case from initiation of a matter to resolution, in accordance with the timeframes as set forth in the USOPC Document Retention Policy. This includes storing:

- Contact information from relevant individuals in the case (e.g. parties, panel, counsel, representatives, other affected parties)
- Filings and submissions
- Deadlines
- Orders and decisions
- Summaries of claims, issues, and decisions
- Key features and outcomes

DRU, with the assistance of the USOPC Communications department, ensures that all awards from AAA cases are publicly posted on TeamUSA.org.

SECTION 9 COMPLAINTS



DRU Support Details



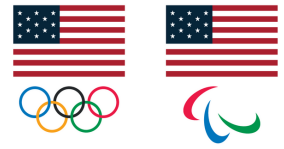
Arbitration Support

The USOPC Board has the authority to determine which arbitral organization is appointed to hear Section 9 complaints. The USOPC currently utilizes the American Arbitration Association (AAA) for Section 9 complaints. DRU serves as a liaison to the AAA for the administration of Section 9 cases.

As Section 9 of the USOPC Bylaws provides that the USOPC may participate in the arbitration process for these matters, a representative from DRU will, at a minimum, observe the arbitration proceeding. Additionally, a representative of DRU may answer questions on behalf of the USOPC during the proceedings that an arbitrator may request. In instances where the USOPC may have a direct interest in the case, an attorney from DRU may represent the USOPC in the proceeding and participate to any extent, including as a party.

Lastly, DRU may communicate immediately with the AAA about a pending Section 9 related case, whether formally filed or not, for expedited proceedings to ensure that the case can be held and decided within 48 hours.

SECTION 9 COMPLAINTS



Ted Stevens Olympic and Amateur Sports Act



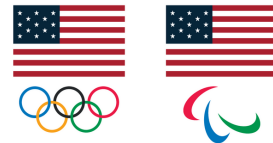
Section 220503(8): *to provide swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;*

Section 220505(c)(5): *Powers related to amateur athletics and the Olympic Games. The corporation may -*

(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes that involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and that arise in connection with their eligibility for and participation in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition, the Pan-American world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation;

Section 220509: *The corporation shall establish and maintain provisions in its constitution and bylaws for the swift and equitable resolution of disputes involving any of its members and relating to the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation. In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, or the Pan-American Games, a court shall not grant injunctive relief against the corporation within 21 days before the beginning of such games if the corporation, after consultation with the chair of the Athletes' Advisory Council, has provided a sworn statement in writing executed by an officer of the corporation to such court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games.*

SECTION 9 COMPLAINTS



USOPC Bylaws



“Protected Competition” means:

“Protected Competition” means:

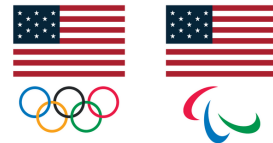
- i. any Delegation Event as defined by these Bylaws, ii. any international competition between athlete(s) officially designated by the appropriate NGB as representing the United States, either individually or as part of a team, and any athlete(s) representing any foreign country where:*
 - 1. the terms of such competition require that the entrants be individuals or teams representing their respective nations; and*
 - 2. the athlete(s) representing the United States are organized and sponsored by the appropriate NGB in accordance with a defined selection or tryout procedure that is open to all and publicly announced in advance except for domestic amateur athletic competition, which, by its terms, requires that entrants be expressly restricted to members of a specific class of athletes such as those referred to in Section 220526(a) of the Act (i.e., high school students, college students, members of the Armed Forces, or similar groups or categories);*
- iii. any domestic competition or event (i.e., a camp, tryout, or trials event) organized and conducted by an NGB or PSO in its selection procedure and publicly announced in advance as a competition or event directly qualifying each successful competitor as an athlete representing the United States in a Delegation Event or protected international competition as defined in ii. above.*

Section 9.1 Opportunity to Participate. *No member of the corporation may deny or threaten to deny any amateur athlete the opportunity to participate in a Protected Competition nor may any member, subsequent to such competition, censure, or otherwise penalize, (i) any such athlete who participates in such competition, or (ii) any organization that the athlete represents. The corporation will, by all reasonable means, protect the opportunity of an amateur athlete to participate if selected (or to attempt to qualify for selection to participate) as an athlete representing the United States in any of the aforesaid competitions. In determining reasonable means to protect an athlete’s opportunity to participate, the corporation will consider its responsibilities to the individual athlete(s) involved or affected, to its mission, and to its membership.*

Any reference to athlete in this Section 9 will also equally apply to any coach, trainer, manager, administrator or other official.

Section 9.2 Manner of Filing a Complaint. *Any athlete who alleges that they have been denied by a corporation member an opportunity to participate as established by Section 9.1 of these Bylaws, may seek to protect their opportunity to participate by filing a complaint with the corporation. A copy of the complaint will also be served on the respondent. The party filing the complaint will file with the corporation proof of service on the respondent. An athlete competing in a team sport, where the team as a whole is affected, may bring a claim on behalf of the team.*

SECTION 9 COMPLAINTS



USOPC Bylaws



Section 9.3 The Complaint. *The complaint must be in writing and filed on the form provided by the corporation. Such form will be set forth on the corporation's website. The complaint will contain at a minimum the following:*

- a) the name and addresses of the parties;*
- b) the factual and legal basis upon which the claimant alleges that his or her opportunity to participate has been denied;*
- c) the competition that is the subject of the complaint; and*
- d) the relief sought.*

Section 9.4 Failure to Properly File. *A complaint that is not filed in accordance with Sections 9.2 and 9.3 of these Bylaws will render the filing ineffective and the complaint will not be considered to have been properly filed.*

Section 9.5 Administration. *Complaints filed under this Section 9 will be administered by the corporation's dispute resolution team. When a complaint is filed, the dispute resolution team will promptly notify the athlete Ombudsman and the Chair of the AAC of the complaint and confirm that the complaint has been served on the respondent.*

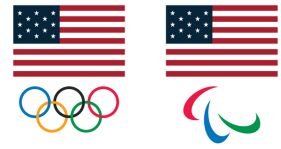
Section 9.6 Action by the Corporation. *Upon the filing of a complaint, the corporation Dispute Resolution team and the Athlete Ombudsman will review the complaint, seek information from the parties as to the merits of the complaint, and determine whether the complaint can be informally resolved to the satisfaction of the parties. The parties will cooperate with the Dispute Resolution team in providing information regarding the complaint and in exploring resolution of the complaint.*

Section 9.7 Arbitration. *If the complaint is not settled to the athlete's satisfaction the athlete may file a claim with the arbitral organization designated by the Board against the respondent for final and binding arbitration. If an impending competition requires immediate resolution of the complaint, an athlete may file a claim with the arbitral organization simultaneously with the filing of the complaint with the corporation.*

The corporation has the right to participate in the arbitration proceeding, but it cannot be involuntarily joined by a party.

The arbitrator will render a reasoned award in writing. All such awards will be made public and may be published on the corporation's website.

SECTION 9 COMPLAINTS



USOPC Bylaws



Section 9.8 Affected Parties. *In any arbitration brought pursuant to this Section 9, the athlete filing the claim will submit with the claim a list of all individuals the athlete believes may be adversely affected by the arbitration. The respondent will also promptly submit to the arbitrator a list of individuals it believes may be adversely affected by the arbitration, along with the relevant contact information for the individuals identified by the respondent and by the athlete. The arbitrator may also determine that individuals not listed by either the athlete or the respondent will be given notice. The arbitrator will then promptly determine which individuals must receive notice of the arbitration. The arbitrator will also approve the notice to be given. Unless determined otherwise by the arbitrator, the arbitrator will then be responsible for providing notice to those individuals. Any individual so notified of the claim, will have the option to participate in the arbitration as a party. If an individual is notified of the claim, then that individual will be bound by the decision of the arbitrator even though the individual chose not to participate.*

Section 9.9 Expedited Procedures. *Upon the request of a party, and provided that it is necessary to expedite the proceeding in order to resolve a matter relating to a competition that is so scheduled that compliance with regular procedures would not be likely to produce a sufficiently early decision to do justice to the affected parties, the arbitrator will hear and decide the claim within 48 hours of the filing of the claim. In such case, the arbitrator is authorized to hear and decide the claim under such procedures as are necessary, but fair to the parties involved.*

Section 9.10 Time Bar. *A claim against a respondent will be prohibited unless filed with the arbitrator not later than six months after the alleged date of denial.*

Section 9.11 Anti-Doping Violations. *A decision concerning an anti-doping rule violation adjudicated by USADA is not reviewable through, or the subject of, these complaint procedures.*

Section 9.12 SafeSport Violation. *A decision concerning a SafeSport rule violation adjudicated by the USCSS is not reviewable through, or the subject of, these complaint procedures.*

Section 9.13 Field of Play Decisions. *The final decision of a referee during a competition regarding a field of play decision (a matter set forth in the rules of the competition to be within the discretion of the referee) is not reviewable through or the subject of these complaint procedures unless the decision is (i) outside the authority of the referee to make or (ii) the product of fraud, corruption, partiality or other misconduct of the referee. For purposes of this Section, the term “referee” includes any individual with discretion to make field of play decisions.*

SECTION 9 COMPLAINTS



USOPC Bylaws



Section 9.14 Complaints Regarding Compliance. *No action taken by an athlete under this Section 9 will preclude, or act as a bar, to the filing of a complaint by the athlete under Section 10 of these Bylaws.*