

**U.S. Paralympics
COMPLAINT PROCEDURES
January 1, 2020**

ARTICLE I. ADMINISTRATION OF COMPLAINTS

Section 1. Types of Complaints.

U.S. Paralympics has the authority to hear and render decisions on the following types of complaints:

- a. Administrative Grievances. Any alleged violation of or grievance concerning: any U.S. Paralympics rule, regulation, or any U.S. Paralympics program or service;
- b. Opportunity to Participate Complaints. Any alleged denial, or alleged threat of denial, of an athlete, coach, trainer, manager, administrator or official's opportunity to participate in competition or activity authorized or organized by U.S. Paralympics;
- c. Disciplinary Actions. Any alleged violation of U.S. Paralympics Code of Conduct, or any other rule or regulation relating to conduct, other than alleged violations of the U.S. Center for SafeSport's ("USCSS") SafeSport Code.

Complaints must be filed pursuant to the specific procedures set forth for each type of complaint and on the form provided by U.S. Paralympics.

Section 2. USOPC Dispute Resolution Unit.

The United States Olympic & Paralympic Committee's ("USOPC") Dispute Resolution Unit ("DRU") will generally administer and oversee all complaints. The DRU will be responsible to ensure that all complaints are heard in a timely, fair and impartial manner. Respondents will be afforded basic due process rights as described in the procedures below. The DRU may promulgate procedures in addition to those set forth in these Complaint Procedures for the effective administration of reports or complaints filed with or referred to U.S. Paralympics.

The DRU will be responsible for determining if a complaint filed with the DRU (1) was properly filed; (2) satisfies the minimum requirements for that type of complaint; (3) should be redesignated as a different type of complaint; and (4) if the applicable filing fee has been submitted. If the DRU determines that a complaint was not filed properly or failed to satisfy the minimum requirements for such complaints, then the DRU will provide the parties the opportunity to remedy the deficiencies and re-file. When making this initial determination of the propriety of filing and the adequacy of the complaint, the DRU may not make any decisions or judgments based on the merits of the complaint, nor may the DRU make any determination that the complaint was frivolous. If the DRU determines that a complaint was filed using the improper designation (e.g., an opportunity to participate complaint was filed as an

administrative grievance), then the DRU will notify the parties of the mis-designation and treat it according to the proper designation. If any deficiencies in the filing are identified as a result of the re-designation, then the DRU will provide the parties the opportunity to remedy the deficiencies and re-file.

ARTICLE II. GENERAL HEARING PROCEDURES

Section 1. Hearing Panel Appointment.

Upon the filing of a complaint, the DRU will appoint a Hearing Panel consisting of three (3) disinterested individuals to hear the complaint. The DRU will also appoint a chair of the Hearing Panel from the three individuals selected. At least one (1) member of the Hearing Panel will be an Athlete Representative. An Athlete Representative must have (1) within the ten (10) years preceding election, represented the United States in the Olympic, Pan American, Paralympic, or Parapan American Games, World Championships, event designated as an Operation Gold event, or, in a team sport, an international championship recognized by the International Federation of the sport; or (2) within the twenty-four (24) months preceding election demonstrated that they are actively engaged in amateur athletic competition by finishing in the top half of U.S. Paralympics national championships or, in a team sport, have been a member of U.S. Paralympics national team. Members of the panel need not be involved in the respective sport.

The complaining party or responding party may object to the appointment of any member of the Hearing Panel on the grounds of bias, conflict of interest, or such other grounds on which the party believes the panel member should be disqualified. The objection, along with relevant information, will be provided to the USOPC Ethics Officer to review any potential grounds for disqualification. The USOPC Ethics Officer will timely render a determination of whether the appointed panel member should be disqualified, and, if the panel member is disqualified, a replacement panel member will be appointed promptly.

Section 2. Notice of the Complaint.

Upon the filing of a complaint, the chair of the DRU will provide acknowledgement of receipt of the complaint to the complainant.

Upon determining that the complaint was properly filed and satisfied the minimum requirements of a complaint of the type asserted, the DRU will promptly provide written notice to the respondent that a complaint against him or her has been received, along with a copy of the complaint. The notice will include an explanation of the allegations or charges made against the respondent, the respondent's opportunity to provide a response, any potential consequences if applicable and the right to have a representative present and provide assistance throughout the proceedings. For cases involving the opportunity to participate, written notice will be provided to all known affected parties.

Section 3. Right to a Representative

Any party to a proceeding under these Complaint Procedures has the right to have a representative present during such proceedings at his or her own expense.

Section 4. Conduct of the Proceedings.

The Hearing Panel will rule on all motions and other matters raised in the proceeding.

A respondent may file a motion to dismiss a complaint against him or her on if:

- (a) the complaint was filed after the applicable statute of limitations for such complaints has expired; or
- (b) the complaint fails to allege any conduct that could be construed as constituting a violation of any applicable rule, policy, or procedure of U.S. Paralympics.

If the complaint is not dismissed, the Hearing Panel will hold a hearing on the complaint. The Hearing Panel will provide to all parties a schedule for the proceeding. The Hearing Panel also will set such other rules regarding the proceeding and the conduct of the hearing as it deems necessary.

In advance of the hearing, the parties may exchange a list of anticipated witnesses, with a brief description of their expected testimony, and any exhibits that the parties anticipate using at the hearing.

The hearing will be informal, except that testimony will be taken under oath. The hearing may be conducted by teleconference or videoconference, if necessary or convenient to the parties. Each party will have the right to appear personally or through a representative.

The Hearing Panel will be required to determine whether, based on the evidence presented, the party seeking relief has proven its entitlement to relief by a preponderance of the evidence.

Any party may have a record made of the hearing. A court reporter may be present at the hearing at the request of a party. The court reporter will be paid for by the party requesting the court reporter, or if mutually agreed, the cost may be equally divided. Any transcript will be paid for by the party requesting the transcript.

Section 5. Written Decisions.

A decision will be determined by a majority of the Hearing Panel. The Hearing Panel's decision will be in writing and distributed to the parties promptly following the close of the hearing.

Section 6. Statute of Limitations.

All complaints must be filed within one hundred and eighty (180) days of the occurrence of the alleged violation, grievance, denial or threat to deny.

Section 7. Informal Resolution/Mediation.

For all reports and complaints, U.S. Paralympics may attempt to informally resolve the dispute at any time. An informal resolution will be in writing and will be considered a final disposition of the matter.

For any report involving allegations of violations of U.S. Paralympics Code of Conduct that is resolved informally, U.S. Paralympics will notify the reporting party that the matter has been resolved. U.S. Paralympics may, but is not required to, provide the reporting party with the details of the resolution. If an informal resolution is reached and the matter is final, the reporting party cannot pursue the complaint further.

Section 8. Due Process.

The parties will be afforded basic due process rights, including, but not limited to, the following:

- (a) each party will have the right to appear personally or through a representative.
- (b) Respondents will receive written notice of any alleged violation or complaint against them, along with an explanation of the potential consequences.
- (c) Respondents will be given a reasonable time before a hearing in which to prepare a defense.
- (d) The Hearing Panel will hold the hearing in a prompt and timely manner. The Hearing Panel will use best efforts to hold the hearing within thirty (30) days of receipt of the complaint, and to issue its written decision within fifteen (15) days thereafter.
- (e) All parties will be given a reasonable opportunity to present and examine evidence, cross-examine witnesses and to present argument.
- (f) Members of the Hearing Panel will have the right to question witnesses or the parties to the proceeding at any time.
- (g) All parties will receive a written decision from the Hearing Panel, which will include notice of the applicable appeal procedures.

Section 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 DRU is authorized to order that the complaint be heard and decided within forty-eight (48) hours of the filing of the complaint. In such a case, the Hearing Panel

is authorized to hear and decide the complaint pursuant to such procedures as are necessary, but fair to the parties involved.

Section 10. Interim Measures.

In the case of Disciplinary Actions, prior to the matter being heard on the merits, it may be necessary to implement interim measures against the respondent in the following circumstances: (i) to ensure the safety or well-being of others, or (ii) where an allegation is sufficiently serious. Where either such circumstance exists, U.S. Paralympics may immediately implement interim measures to protect others, provided the respondent is afforded an opportunity for a provisional hearing within a reasonable amount time, including allowing to request expedited procedures if it affects an individual's opportunity to participate. The provisional hearing is not a full hearing on the merits. The sole issue before the Hearing Panel is whether there is reasonable cause to impose an interim measure. Interim measures may include, but are not limited to, altering training schedules, providing chaperones, limiting contact, removal from the venue and suspensions. The respondent will still be afforded with a hearing on the merits in a timely manner thereafter.

ARTICLE III. ADMINISTRATIVE GRIEVANCES

Section 1. Jurisdiction.

Any individual subject to the rules and regulations of U.S. Paralympics, as evidenced through signing any U.S. Paralympics agreement or Code of Conduct, may file an administrative grievance and agrees to be subject to these Complaint Procedures and to be bound by any decision rendered pursuant to these Complaint Procedures.

Section 2. Filing Requirements.

- a. Manner of Filing. A complainant will file an Administrative Grievance Complaint with the DRU at DRU@usopc.org using the form provided by U.S. Paralympics.
- b. Requirements For Complaint. The complaint will set forth in clear and concise language, preferably in numbered paragraphs: (i) the alleged violation or grievance; (ii) the identity of the rule, regulation, policy, or other U.S. Paralympics requirement alleged to have been violated; (iii) the identity of any parties claimed to have been aggrieved by the violation; (iv) the identity of any parties claimed to have been involved in or to have caused the alleged violation or grievance; and (v) the remedy requested. The complainant will sign the complaint and provide his or her current contact information on the form, including a preferred email address.
- c. Filing Fee. A filing fee of \$100 must be submitted with any administrative grievance filed with the DRU. The filing fee may be waived by the DRU for individual complainants upon a showing of hardship or other good cause.

Section 3. Hearing.

The hearing will be conducted in accordance with Article II of these Complaint Procedures.

Section 4. Appeal

A party not satisfied with the decision may appeal the decision to the American Arbitration Association (AAA) pursuant to the Commercial Rules of Arbitration for a final and binding decision. The arbitrator appointed by the AAA will have the authority to hear the matter anew or, if requested by a party, to render a decision based on a more limited scope of review of the matter.

ARTICLE IV. OPPORTUNITY TO PARTICIPATE COMPLAINTS

Section 1. Jurisdiction.

Any athlete, coach, trainer, manager, administrator or other official participating in, or believes should participate in, any competition or activity authorized or organized by U.S. Paralympics may file an opportunity to participate complaint and agrees to be subject to these Complaint Procedures and to be bound by any decision rendered pursuant to these Complaint Procedures.

Section 2. Filing Requirements.

- a. Manner of Filing. A complainant will file an Opportunity to Participate Complaint with the DRU at DRU@usopc.org on the form provided by the U.S. Paralympics.
- b. Requirements For Complaint. The complaint will set forth in clear and concise language, preferably in numbered paragraphs: (i) the grievance, violation, or conduct that impacts or could impact the individual's opportunity to participate; (ii) the identity of the respondent and any affected parties; (iii) the particular competition, event, or activity in which the individual's or affected parties' participation could be impacted; and (iv) the remedy requested. The complainant will sign the complaint and provide his or her current contact information in the signature block, including a preferred email address.
- c. Filing Fee. A filing fee of \$100 must be submitted with any opportunity to participate complaint filed with the DRU. The filing fee may be waived by the DRU for individual complainants upon a showing of hardship or other good cause.

Section 3. Hearing.

The hearing will be conducted in accordance with Article II of these Complaint Procedures. In addition, all affected athletes will be treated as parties to the case, and will be provided an opportunity to participate in the hearing.

Section 4. No Exhaustion Requirement for Complaints Involving a Protected Competition

If the competition in question is a protected competition, as defined in Section 1.3 of the USOPC Bylaws, an individual is not required to exhaust internal remedies and first go through U.S. Paralympics Complaint Procedures and may proceed directly through the process set forth in Section 9 of the USOPC Bylaws.

Section 5. Appeal.

If a complainant is not satisfied with a decision rendered under these Complaint Procedures, and the competition involves a protected competition, the individual may file a complaint with the USOPC under Section 9 of the USOPC Bylaws. After the filing of a Section 9 complaint with the USOPC, or simultaneously thereto, the individual may file a demand for arbitration with the AAA pursuant to the AAA's Commercial Arbitration Rules. The AAA's decision will be a final and binding decision.

For all other competitions, the complainant may appeal a decision of the Hearing Panel to the AAA pursuant to the AAA's Commercial Arbitration Rules for a final and binding decision. The arbitrator appointed by the AAA will have the authority to hear the matter anew or, if requested by a party, to render a decision based on a more limited scope of review of the matter. Either party may submit the decision of the Hearing Panel to the arbitrator for the arbitrator's consideration.

ARTICLE V. DISCIPLINARY ACTIONS

Section 1. Jurisdiction.

Any individual may file a report against any other individual of the Paralympic sport who has signed and agreed to abide by the U.S. Paralympics Code of Conduct while the action occurred, for alleged violations of U.S. Paralympics Code of Conduct or any other rule or regulation relating to conduct.

Section 2. Reporting.

- a. Reporting to U.S. Paralympics. Any individual may report alleged misconduct to U.S. Paralympics. Individuals may report alleged misconduct either verbally or in writing to the U.S. Paralympics. In a report, the individual is encouraged, but not required, to provide the following information: (i) the identity of the individual or individuals alleged to have violated the U.S. Paralympics Code of Conduct, other rule or regulation related to Conduct; (ii) details regarding the complained of misconduct, including, to the extent possible, the identity of any alleged victims or witnesses; and (iii) the reporting or complaining party's contact information, including a preferred email address, unless the report or complaint was made anonymously.

U.S. Paralympics may also pursue a possible violation of the Code of Conduct based on information received other than by a report described here.

- b. Anonymous Reporting. All reports can be made anonymously.

Section 3. Filing Fee.

There will be no filing fee associated with the filing of a report or complaint of alleged violations of U.S. Paralympics Code of Conduct or other rule or regulation related to conduct.

Section 4. Interim Measures.

U.S. Paralympics may impose interim measures at any time pursuant to Article II Section 10.

Section 5. Preliminary Inquiry/Investigation.

Upon receipt of a report of an alleged violation of U.S. Paralympics Code of Conduct or other rule or regulation related to conduct, U.S. Paralympics will promptly undertake a preliminary inquiry into the matter and gather any relevant information it can regarding the alleged misconduct.

If U.S. Paralympics determines that a formal investigation is required before proceeding with the case, then U.S. Paralympics will conduct, or direct to be conducted, an unbiased and impartial investigation of the report and prepare an investigative report that provides a comprehensive description of the investigator's findings.

Section 6. Informal Resolution

At any time prior to a final decision, the U.S. Paralympics has the authority to reach an informal resolution of any matter. An informal resolution is a final decision and will not be appealable. U.S. Paralympics will notify the reporting party, if any, that an informal resolution has been reached. U.S. Paralympics may, but is not required to, provide the reporting party with the details of the resolution. If an informal resolution is reached and the matter is final, the reporting party cannot pursue the complaint further.

Section 7. Party Responsible For Pursuit Of Case.

- a. U.S. Paralympics Pursues Case. After review of the initial report, any preliminary information gathered, and the investigative report (if one has been issued), U.S. Paralympics may initiate a complaint by filing a complaint with the DRU and requesting that a hearing on the complaint be conducted. Unless U.S. Paralympics, either through the preliminary inquiry and/or investigative report, determines with certainty that there is no basis to the report, or if an informal resolution has not been reached, U.S. Paralympics will pursue a complaint based on the reported misconduct. U.S. Paralympics will notify the reporting party that the NGB is pursuing the complaint.
- b. U.S. Paralympics Declines the Case.

- i. If U.S. Paralympics declines to file a complaint on behalf of U.S. Paralympics based on the preliminary inquiry and/or investigative report or other reasons, then U.S. Paralympics must advise the reporting party (if the report was not made anonymously) that, while U.S. Paralympics will not initiate a complaint in its own name, the reporting party may still file his/her complaint directly with the DRU.
- ii. If the reporting party elects to file a complaint with the DRU , then the reporting party is responsible for all aspects of pursuing the case that otherwise would have been the responsibility of U.S. Paralympics.
- iii. The reporting party who elects to move the case forward will be provided with any relevant information collected by the U.S. Paralympics.

Section 8. Filing Requirements.

- a. Manner of Filing. A complainant (either U.S. Paralympics, or the reporting party only if U.S. Paralympics declines to pursue the case) will file a Disciplinary Action Complaint with the DRU at DRU@usopc.org.
- b. Requirements for Disciplinary Action Complaints. The Disciplinary Action Complaint will set forth in clear and concise language, preferably in numbered paragraphs: (i) the identity of the individual or individuals alleged to have violated U.S. Paralympics Code of Conduct or other rule or regulation related to conduct; (ii) details regarding the misconduct, including, to the extent possible, the identity of any alleged victims or witnesses; (iii) the initial report of the alleged misconduct; (iv) any relevant information gathered from any preliminary inquiry or investigation conducted by U.S. Paralympics or third parties, including any investigative report; and (v) if U.S. Paralympics is the complainant, the reporting party's contact information, including a preferred email address, if known.
- c. Filing Fee. There will be no filing fee associated with Disciplinary Actions.

Section 9. Hearing.

The hearing will be conducted in accordance with Article II of these Complaint Procedures. However, minors will not be required to submit to cross-examination by the respondent or the respondent's representative, and may instead be examined by the members of the Hearing Panel, including based on written questions submitted by the respondent and/or respondent's representative.

Section 10. Appeal.

A party may appeal the Hearing Panel's decision to the AAA pursuant to the AAA's Commercial Arbitration Rules for a final and binding decision. If the Hearing Panel's decision

affects a party's opportunity to participate in a protected competition as defined in Section 1.3 of the USOPC Bylaws, then the party may proceed through the process set forth in Section 9 of the USOPC Bylaws.

ARTICLE VI. EXCLUDED PROCEEDINGS

Section 1. Scope of Jurisdiction.

The jurisdiction of these proceedings is limited as follows:

- a. Anti-Doping Violations. A decision concerning a doping violation adjudicated by the independent anti-doping organization designated by the USOPC to serve as the U.S. National Anti-Doping Organization (currently the United States Anti-Doping Agency) will not be reviewable through, or the subject of, these complaint procedures.
- b. SafeSport Decisions. A decision concerning a SafeSport Code violation adjudicated by the independent safe-sport organization designated by the USOPC (currently the USCSS) will not be reviewable through, or the subject of, these complaint procedures.
- c. USOPC Athlete Safety Policy Reports/Complaints. A report and/or complaint submitted pursuant to the USOPC Athlete Safety Policy regarding allegations of the SafeSport Code to which the USCSS declines jurisdiction over, will not be reviewable through, or the subject of, these complaint procedures, and will be conducted in accordance with the USOPC Athlete Safety Policy.
- d. USOPC Background Check Review. Any review of a self-disclosure or red-light finding of a criminal record that was completed pursuant to the USOPC Background Check Policy, will not be reviewable through, or the subject of, these complaint procedures, and will be conducted in accordance with the USOPC Background Check Policy.
- e. 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) will not be 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" will include any individual with discretion to make field of play decisions.
- f. Classification Matters. All classification matters, disputes, and appeals will not be reviewable through, or the subject of, these complaint procedures, and will be conducted in accordance with the classification rules and procedures of the International Federation and/or the International Paralympic Committee (for international dispute matters) or the U.S. Paralympics National Classification Policies & Procedures (for national dispute matters).

ARTICLE VII. OTHER MATTERS

Section 1. No Retaliation.

Neither U.S. Paralympics nor any U.S. Paralympics member, employee, coach, referee/official or board member will retaliate against an individual for the filing of a complaint or report under these Complaint Procedures. It will constitute a violation of U.S. Paralympics rules and grounds for discipline to retaliate against any individual for the filing of a complaint.

Section 2. Office of the Athlete Ombuds

The Office of the Athlete Ombuds offers cost-free, confidential, independent advice to athletes regarding grievance processes and assists athletes in resolving disputes or concerns. For advice or assistance, athletes may contact the Office at (719) 866-5000, ombudsman@usathlete.org, or www.usathlete.org.