



## **UNITED STATES ASSOCIATION OF BLIND ATHLETES GRIEVANCE, COMPLAINT AND APPEAL PROCEDURES POLICY**

These United States Association of Blind Athletes (USABA) Grievance, Complaint and Appeal Procedures ("Procedures") are subject to and incorporate the provisions of Article XI of the USABA Bylaws (the "Bylaws") pertaining to Designation of Complaints, including but not limited to alleged violations of the USABA Code of Conduct, USOPC Bylaws, the Ted Stevens Olympic and Amateur Sports Act, and any other policies, procedures, or regulations within the jurisdiction of the Judicial Committee. Article XI of the Bylaws is set forth in its entirety as Attachment 1 to these Procedures. To the extent there is any inconsistency between the provisions of these Procedures and the provisions of Article XI of the Bylaws, the provisions of Article XI of the Bylaws will prevail.

Section 10 of Article XI of the Bylaws provides that the Judicial Committee may promulgate procedures in addition to those set forth in the Bylaws for the effective administration of complaints filed with USABA. The Judicial Committee will apply these Procedures and may adopt such other procedures, not inconsistent with these Procedures, to provide for the administration of complaints filed with USABA, including hearing procedures to be utilized by hearing panels.

### **Section 1: Manner of Filing a Complaint:**

While Article XI of the Bylaws provides that the complainant (the "Grievant") shall file the complaint with the Judicial Committee, for administrative purposes a complaint should be filed with the USABA Chief Executive Officer or the USABA Athlete Representative. The Chief Executive Officer or Athlete Representative will then forward the complaint to the USABA Judicial Committee within 48 hours of their receipt of the complaint. In addition to the description of what the complaint must contain, as contained in Article XI, Section 3 of the Bylaws, the Grievant shall set forth in the Complaint, in clear and concise language, the following:

- A. The name of the party filing the Grievance (the "Grievant"), including identifying membership information;
- B. The Grievant's address, telephone number and email address;
- C. The name of the party against whom the Grievance is brought (the "Respondent"), including identifying membership information of available;
- D. The Respondent's address, telephone number and email address, if known;
- E. The name, address, email address and telephone numbers of any other party involved;
- F. The USABA Bylaw or rule allegedly violated;
- G. A statement of facts explaining the alleged violation, including all relevant dates;
- H. A statement as to whether the Grievant has attempted to resolve the matter and a description of the specific actions the Grievant took to resolve the matter; and
- I. The action the Grievant wishes taken.

The Grievant may attach supporting documentation to the complaint.



Report complaint to USABA:

- Phone: (719) 866-3224 (calls directed to Chief Executive Officer or Athlete Representative)
- Email: [Chief Executive Officer](#) or [Athlete Representative](#)

## **Section 2: Processing of Complaint by Judicial Committee Chair:**

- A. The Judicial Committee Chair reviews the complaint after it has been filed to determine:
  1. Whether the allegations, if accepted as true, establish a violation of USABA bylaw or rules;
  2. Whether the complaint complies with the Bylaws;
  3. Whether the Judicial Committee has the authority to grant the relief requested.
- B. If the Judicial Committee Chair determines that the complaint complies with all applicable requirements, the Judicial Committee Chair shall, within two weeks of receipt of the complaint:
  1. Notify the Grievant, the Respondent, and the USABA Board of Directors' Chair of the complaint;
  2. Forward a copy of the complaint and any supporting documentation to the Respondent(s) at the Respondent's last known address or the address maintained in the USABA database or to the Respondent's representative, if such representative is known to USABA. The Respondent will be sent the complaint and supporting documents via mail and email. This will constitute "notice". The person responsible for sending the documents to the Respondent must use any expeditious delivery system that provides reasonable evidence of delivery to the addressee, which will constitute proof that notice of the Grievance was given to the Respondent; and
  3. After consultation with the other members of the Judicial Committee, appoint a Hearing Panel and forward the complaint and any supporting documentation to each panel member.
- C. If the Judicial Committee Chair determines that the complaint does not comply with all applicable requirements, the Judicial Committee Chair must notify the Grievant. The notice must be in writing and explain the basis for the decision. The notice must be sent by any expeditious delivery system that provides reasonable evidence of delivery to the addressee, within two weeks of receipt of the complaint. The Grievant shall have no more than two weeks from receipt of such notice to amend the complaint so that it complies with applicable requirements.

## **Section 3: Hearing Panel:**

The Hearing Panel shall consist of three (3) conflict-free and disinterested individuals. The Judicial Committee Chair shall also appoint a chair ("Hearing Panel chair") of the Hearing Panel from among the three (3) individuals appointed. In the case where it is determined that the Judicial Committee is conflict-free and disinterested individuals to the case at hand, the Judicial Committee may serve as the Hearing Panel. The Hearing Panel shall be responsible to ensure that all complaints are heard in a timely, fair and impartial manner.



The Judicial Committee Chair shall forward to the Hearing Panel all materials received from the Grievant, and the Hearing Panel shall forward the materials to the Respondent with a copy of these procedures.

The Judicial Committee Chair must advise the Grievant, Respondent, the USABA Chair, and the USABA Chief Executive Officer of the names of the Hearing Panel members promptly upon their appointment. Such notice may be verbal but must be promptly confirmed in writing. The Grievant or the Respondent may request the replacement of a Hearing Panel member. Such a request may be made solely on the basis of an alleged conflict of interest. The request must be in writing and delivered to the Judicial Committee Chair within 10 days of receipt of the names of the Hearing Panel members. The request must specify the basis for the request and provide all evidence supporting the request. The Judicial Committee Chair must, within five days of receipt of a request for removal, determine whether to grant the request and must notify the Grievant and the Respondent of the ruling. If the Judicial Committee Chair finds a conflict of interest, the Judicial Committee Chair must appoint a replacement. The Judicial Committee Chair's decision is final, binding, and may not be appealed under the bylaws and rules of USABA.

#### **Section 4: Conduct of the Proceeding:**

- A. The Respondent shall have 21 days to prepare a defense and to file an Answer to the Grievance, which Answer may explain any reason why the Hearing Panel should not grant relief. Not later than the deadline for filing the Answer, the Respondent may move to dismiss the Grievance on the grounds that the Judicial Committee does not have jurisdiction to hear the Grievance, but the filing of such a motion to dismiss shall not delay the time permitted to file an Answer.
- B. Upon receipt of the Answer and any Motion to Dismiss, or after the expiration of the time for filing an Answer (if no Answer is filed) the Hearing Panel Chair, after consultation with the parties, shall determine if the hearing will be conducted by writing, telephone conference, in person, Zoom (or similar service) or any combination thereof. The hearing or completion of the investigation must occur within 90 days of the filing of the Answer unless the Hearing Panel chair decides that there are reasonable grounds for a delay, grants a reasonable delay, and notifies the parties of the delay in writing as well as the reasons for the delay. This time limit shall not be construed as jurisdictional. If the Respondent files a Motion to Dismiss, the Hearing Panel shall entertain and determine the Motion in such manner as the Hearing Panel Chair deems appropriate.
- C. The Grievant and Respondent may represent themselves or may be represented by a person of their choice.
- D. The Judicial Committee Chair will provide the Grievant, the Respondent and the Hearing Panel members with written hearing procedures and guidelines to be followed, including but not limited to reasonable deadlines for the identification of witnesses, exhibits, and written arguments (if any) in advance of the hearing.
- E. All communications with the Hearing Panel must be in writing and directed to the chair of the Hearing Panel with a copy to the opposing party. There shall be no *ex parte* communications with the chair or the members of the Hearing Panel.



- F. Members of the Hearing Panel shall have the right to question witnesses or the parties to the proceeding at any time. All parties shall be given a reasonable opportunity to present and examine evidence, cross-examine witnesses and to present argument.
- G. All testimony shall be taken under oath.
- H. The Hearing Panel chair must ensure that a record of the hearing is made.
- I. The Grievant has the burden of proof by a preponderance of the evidence.
- J. Within 20 days of the conclusion of a hearing, the Hearing Panel must issue a written decision including findings of fact, the Bylaws or rules upon which the decision is based and the reasoning behind the decision. A decision shall be determined by a majority of the Hearing Panel. The decision must be sent to the Grievant, Respondent, the Judicial Committee Chair, the USABA Chair, and the USABA Chief Executive Officer by any expeditious delivery system that provides reasonable evidence of delivery.
- K. The jurisdiction of the Hearing Panel ceases, and Hearing Panel members shall be discharged when the written decision is issued.

#### **Section 5: Anti-Retaliation:**

It is the responsibility of every member to honor the Grievance Procedures, to cooperate in any investigation or hearing, and not to retaliate against person involved in the grievance process.

#### **Section 6: Interim Measures:**

In the event that (a) a Complaint is filed under the provisions above, or (b) USABA is notified that the United States Center for SafeSport is exercising jurisdiction over a complaint filed with the Center, the Chief Executive Office of USABA may impose such interim limitations on the participation of the Respondent in USABA activities as the CEO deems appropriate and consistent with Rule 40 of the SafeSport Code.

## **ATTACHMENT 1 to USABA Grievance, Complaint and Appeal Procedures USABA Bylaws Article XI Designation of Complaints**

**Section 1.** The following kinds of complaints may be filed with USABA:

- a. Administrative Grievance. USABA or any member of USABA may file a complaint pertaining to any matter within the cognizance of USABA, including but not limited to any alleged violation of or grievance concerning: (i) any USABA rule or regulation, (ii) any USABA program or service, (iii) any provision of USABA's Bylaws, or (iv) any provision of the Sports Act relating to USABA's recognition as a PSO.
- b. Disciplinary Proceeding. USABA or any member of USABA may file a complaint against another member of USABA, or former member of USABA if the action occurred while the individual was a member, regarding any alleged violation of USABA Code of Conduct, USABA SafeSport Policy, or any other rule or regulation relating to conduct.



- c. Right to Participate. Any athlete, coach, trainer, manager, administrator or official may file a complaint pertaining to any alleged denial, or alleged threat to deny, of that individual's opportunity to participate in a USABA sanctioned competition or protected competition.

Section 2. Any member of USABA, by reason of membership, agrees to be subject to these complaint procedures and agrees to be bound by any decision rendered pursuant to these complaint procedures.

Section 3. The complainant shall file the complaint with the Judiciary Committee. The complaint shall set forth in clear and concise language, preferably in numbered paragraphs: (i) the alleged violation, grievance, denial or threat to deny, and (ii) the remedy requested. The complainant shall sign the complaint unless it is a SafeSport issue according to USABA's SafeSport Policies.

Section 4. A complaint filed by an individual shall be accompanied with a \$100 filing fee. A complaint filed by an organization shall be accompanied with a \$250 filing fee, except that USABA is not required to pay a filing fee. The complainant may request that the filing fee be reduced or waived for reasons of significant financial hardship. If such request is made, the Judicial Committee shall determine whether or not to reduce or waive the filing fee. There is no filing fee if the complaint falls under USABA SafeSport policy.

Section 5. A complaint filed under these Bylaws shall be filed within one hundred and eighty (180) days of the occurrence of the alleged violation, grievance, denial or threat to deny of opportunity to participate. There shall be no time bar for actions regarding SafeSport disciplinary proceedings.

Section 6. A decision concerning an anti-doping rule violation adjudicated by the independent anti-doping organization designated by the USOPC to serve as the U.S. National Anti-Doping Organization (currently the USADA) shall not be reviewable through, or the subject of, these complaint procedures.

Section 7. A decision concerning a USABA SafeSport Policy violation adjudicated by the independent SafeSport organization designated by the USOPC (currently the United States Center for SafeSport) shall not be reviewable through, or the subject of, these complaint procedures.

Section 8. 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) shall 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" shall include any individual with discretion to make field of play decisions.

Section 9. The Judicial Committee shall administer and oversee all administrative grievances and right to participate in matters filed with USABA. The Judicial Committee shall be responsible to ensure that all complaints are heard in a timely, fair and impartial manner. Respondents shall be afforded basic due process rights. The Judicial Committee may promulgate procedures in addition to those set forth in these Bylaws for the effective administration of complaints filed with USABA.





Section 10. Upon the filing of a complaint, the Judicial Committee chair after consultation with the other committee members, shall appoint an unbiased hearing panel consisting of three (3) individuals to hear the complaint. If any members of the committee are the subject of the complaint, they shall remove themselves in the selection of the hearing panel. The committee members may be appointed to and serve on the hearing panel. Other disinterested individuals identified by the committee may also be appointed to and serve on the hearing panel. At least one (1) member of the hearing panel shall be an athlete who meets the qualifications set forth in USABA Bylaws Article VII Section 4. Members of the panel need not be members of USABA or involved in Goalball.

Section 11. The Hearing Panel shall rule on all motions and other matters raised in the proceeding. If the complaint is not dismissed, the hearing panel shall hold a hearing on the complaint. The hearing panel shall set such timelines and other rules regarding the proceeding and the conduct of the hearing as it deems necessary. The hearing shall be informal, except that testimony shall be taken under oath.

The hearing may be conducted by teleconference, if necessary or convenient to the parties. Each party shall have the right to appear personally or through a legal representative. All parties shall be given a reasonable opportunity to present and examine evidence, cross-examine witnesses and to present argument. Members of the hearing panel shall have the right to question witnesses or the parties to the proceeding at any time.

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

Section 12. 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 Judicial Committee 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 13. Where a complaint is filed involving selection of an individual to participate in a competition, the complainant shall include with the complaint a list of all other individuals, together with their contact information, that may be adversely affected by a decision rendered on the complaint. The adverse party to the complaint shall also submit a list of individuals, together with their contact information, that may be adversely affected by decision rendered on the complaint. The hearing panel shall determine those individuals who must receive notice of the complaint. The complainant shall then be responsible for providing appropriate notice to these individuals. Any individual so notified then shall have the option to participate in the proceeding as a party. If an individual is notified of the complaint, then that individual shall be bound by the decision of the hearing panel even though the individual chose not to participate as a party.



Section 14. A decision shall be determined by a majority of the hearing panel. The hearing panel's decision shall be in writing and distributed to the parties.

Section 15. Any party may appeal a decision of the hearing panel to the American Arbitration Association. The arbitrator appointed by the American Arbitration Association shall have the authority to hear the matter anew or if requested by a party to render a decision on a more limited review. Either party may submit the decision of the hearing panel to the arbitrator for the arbitrator's consideration.