

USA Gymnastics

OPPORTUNITY TO PARTICIPATE GRIEVANCE PROCEDURES



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Effective Date: June 2021

1. Opportunity to Participate Complaint. An “Opportunity to Participate Complaint” (a “Complaint”) is one alleging that USA Gymnastics (USAG) has denied, or has threatened to deny, any member who is an athlete, coach, trainer, manager, administrator or official, the opportunity to participate in amateur athletic competition sanctioned by USAG or protected by the Ted Stevens Olympic and Amateur Sports Act (Ted Stevens Act) or the United States Olympic & Paralympic Committee’s bylaws. The individual claiming the opportunity to participate has standing to bring a Complaint. If the individual is a minor, their parent or guardian has standing to bring the Complaint.
2. Interaction with USAG Safe Sport and the Center. These procedures do not apply to alleged violations of USAG’s Safe Sport Policy or to any matter within the jurisdiction of the U.S. Center for SafeSport (the “Center”). If a Complaint alleges both violations of USAG’s Safe Sport Policy and an opportunity to participate, then the allegations will be resolved through USAG’s Safe Sport process. A Complaint submitted under these procedures arising out of conduct or a matter over which the Center has exclusive jurisdiction, or over which the Center has exercised jurisdiction, may be stayed pending the outcome of the Center’s process.
3. Interaction with Law Enforcement. Any Complaint arising out of conduct or a matter that has been referred to, or is being investigated by, any law enforcement or similar agency may be stayed pending the outcome of that agency’s process.
4. Submitting a Complaint. Any individual with standing (the “Complainant”) may submit an Opportunity to Participate Complaint to USAG.
 - a. An Opportunity to Participate Complaint must:
 - i. Be in writing, be dated by the Complainant, and contain a statement by the Complainant attesting to the truth, completeness and accuracy of the statements made in the Complaint to the best of their knowledge;
 - ii. Include the Complainant’s full name and identifying membership information;
 - iii. Identify, to the extent known to the Complainant, all individuals and organizations who are allegedly responsible for the acts or omissions that are the subject of the Complaint;
 - iv. Include a concise statement of the nature of the Complaint, the facts supporting the Complaint, and the relief requested; and
 - v. Attach copies of any supporting documentation;

- b. The Complainant must, to the extent known, identify all persons who may be adversely affected if the relief requested in the complaint is granted. For example, an athlete who submits an Opportunity to Participate Complaint and requests a spot on a team must identify the current members of that team. Since circumstances may require that this process proceed on an expedited time frame, the Complainant would be in the best position to provide the identities of persons who were named to that team.
- c. The Complaint must be addressed to the Chair of Ethics & Grievance Committee and USAG's Chief Legal Officer and submitted either (i) by mail or courier at the below address or (ii) by email to both email addresses listed below:

USA Gymnastics
Attn: Chief Legal Officer and Chair, Ethics & Grievance Committee
1099 N. Meridian St., Suite 800
Indianapolis, IN 46204

or

USA Gymnastics: legal@usagym.org and EandG@usagym.org

- 5. Anti-Retaliation. Retaliation of any kind against a person who files a Complaint or otherwise participates in good faith in the process outlined in these procedures is prohibited. Any such retaliation is a separate basis for a complaint and disciplinary action.
- 6. Time Bar. An Opportunity to Participate Complaint must be submitted as soon as possible after the alleged denial or threat to deny, but in any event not later than 30 days after the alleged denial or threat to deny. If the sole relief requested is the spot on a team, a Complaint not submitted within this timeframe will be dismissed as time-barred. All other claims set forth in the Complaint may proceed.
- 7. Informal Resolution. Upon the filing of a Complaint, USAG Compliance Counsel or designated USAG staff (USAG Compliance) 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 USAG Compliance in providing information regarding the Complaint and in exploring resolution of the Complaint. If the dispute is not settled to the Complainant's satisfaction, the Complaint will proceed as set forth herein below.
- 8. Notice of the Complaint and Opportunity to Respond.
 - a. Within fourteen (14) days after receipt of an Opportunity to Participate Complaint, and the conclusion of any informal dispute settlement discussions as set forth in Section 7 hereinabove, USAG Compliance will determine:
 - i. Whether the Complaint complies with these procedures, including whether the Complaint is time-barred;

- ii. Whether the underlying facts and circumstances referenced in the Complaint give rise to an issue that is appropriate for resolution under these procedures;
 - iii. Whether the Complainant has standing to submit the Complaint; and
 - iv. Whether the Complaint involves matters that USAG does not have the authority or ability to remedy.
- b. If USAG Compliance determines that the Complaint does not satisfy the criteria specified in these Procedures, the Complaint will be dismissed. The Complainant and any other party who has been given notice of the Complaint will be advised of any such dismissal.
- c. If there is a deficiency in the submission that can be cured, USAG Compliance will provide the Complainant with notice of the defect(s) and a reasonable period to cure the defect(s). If the Complainant fails to cure within the time period provided, the Complaint will be dismissed. The Complainant and any other party who has been given notice of the Complaint will be advised of any such dismissal.
- d. If USAG Compliance determines that the complaint satisfies the criteria specified herein, it will cause to be sent:
 - i. A copy of the Complaint and any attachments to any individual and organization whose conduct is the subject of the Complaint (an “Adverse Party”); and,
 - ii. Notice to Adverse Party, which will advise the Adverse Party of its right to respond in writing to the Complaint within 14 days of the date of the Notice to Adverse Party. This provision is satisfied by sending a copy of the Complaint and the Notice of Adverse Party to the e-mail or mailing address of each Adverse Party listed in the Adverse Party’s USAG membership records.

9. Hearing Panel.

- a. Within 14 days after either the receipt of a response to the Complaint or the deadline to respond has passed, whichever is sooner, the Ethics & Grievance Committee will appoint at least three (3) disinterested individuals to serve as the hearing panel for the matter (the “Hearing Panel”).
- b. The Hearing Panel will be comprised of one (1) member of the Ethics & Grievance Committee, who will be the chair of the Hearing Panel; one (1) athlete representative who is a 10-Year Athlete Representative and is appointed in accordance with USAG’s Bylaws; and one (1) additional individual who may or may not be a member of USAG. At least one of the Hearing Panel members must be an attorney. Upon appointment of the Hearing Panel, the Ethics & Grievance

Committee will disclose the names of the hearing panelists to the Complainant, the Adverse Parties, and USAG.

- c. The Ethics & Grievance Committee may create procedures for Hearing Panels in addition to these Procedures.
 - d. Any actual or potential conflicts of interest involving the members of the Hearing Panel will be addressed per USAG's Conflict of Interest Policy.
 - e. Interested Party. The Hearing Panel may instruct USAG Compliance to provide notice of the Complaint to any individual(s) that it determine(s) in its reasonable judgment should receive notice of the Complaint (Interested Party) and may afford the Interested Party an opportunity to participate in the hearing process.
10. Summary Dismissal. After the time for responding to the complaint has expired, or after receipt of responses from all Adverse Parties, whichever is sooner, the Hearing Panel may decide to dismiss the Complaint on such grounds as it deems appropriate, including, but not limited to, the Complaint is moot, or fails to state a claim upon which relief may be granted.
11. The Hearing.
- a. The Hearing Panel will provide all parties with not less than 10 days' notice of the hearing date. The hearing date notice will include the names, addresses, email addresses, fax numbers (if any), and email of counsel who has been identified as representing an interest or party in the matter.
 - b. Notice. Within this section, "notice" is effectuated by sending a copy to the e-mail or mailing address of each party as listed in the USAG membership records and any Interested Party as set forth hereinabove, unless revised or corrected by a party or Interested Party.
 - c. Absent just cause, a hearing will occur within 90 days after USAG receives the Complaint. "Just cause" includes, but is not limited to, the consideration of inclement weather affecting delivery of notice, the additional time to cure complaint defects, unforeseen circumstances affecting the ability of a party to submit fulsome information, and civil unrest or terrorism.
 - d. A party may be represented by counsel at the party's own expense. A party desiring to be represented by counsel must give notice of such representation to the chair of the Hearing Panel and to each party at least five (5) days before the hearing. This notice must include the name, address, phone number, fax number, and email address of the counsel.
 - e. At least five days before the hearing, each party must disclose to the Hearing Panel and all other parties (i) the names of any witnesses who the party may call at the hearing and (ii) all exhibits or other tangible evidence that the party may submit during the hearing.

- f. The rules of evidence generally do not apply to proceedings before the Hearing Panel. If a party believes that proffered evidence should not be admitted, then the panel will decide that party's objection, taking into account all relevant information including the probative value of the proffered evidence.
- g. The hearing may be conducted in person or by video conference at a time and place (if applicable) selected by the chair of the Hearing Panel. The chair will endeavor to select a place and time that is convenient and equitable to the majority of the persons involved in the hearing. However, the decision of the chair as to the place and time of the hearing is final.

12. Decision of the Hearing Panel.

- a. The written decision of the Hearing Panel will be submitted to the parties and USAG within fourteen (14) business days after the end of the hearing. The decision will be made based on the preponderance of the evidence standard (i.e., more likely than not) and will set forth the bases for the Hearing Panel's determination.
- b. Except in cases where the expedited procedures apply as detailed below, the Hearing Panel will make its decision at least fourteen (14) business days before the start of the amateur athletic competition that is the subject of the Complaint, and it will notify all parties of that decision in writing. The Hearing Panel's written decision may be submitted to the parties and USAG after the applicable competition.
- c. An appeal of the Hearing Panel's decision may be submitted to the American Arbitration Association to the extent allowed by the Ted Stevens Act and USAG's or the USOPC's Bylaws.

13. Expedited Procedures.

- a. When the Ethics & Grievance Committee determines that exigent circumstances require an expedited decision, a quorum of the committee may hear and decide a complaint within such shorter timeframe as the committee determines is reasonable under the circumstances.
- b. In such case, the Complainant may submit a Complaint for "Expedited Consideration" so as will bring the matter immediately to the attention of the Ethics & Grievance Committee.
- c. The Ethics & Grievance Committee (or subset thereof) may hear such matter directly or appoint a Hearing Panel, whichever will aid in the expeditious review of the complaint.
- d. The Ethics & Grievance Committee or Hearing Panel may alter these procedures to ensure expeditious review and fairness to all parties.

- e. The Ethics & Grievance Committee or Hearing Panel may render either an oral or summary written decision, either of which is to be followed within thirty (30) days by a full written decision.
- f. An appeal of the Hearing Panel's or Ethics & Grievance Committee's decision under these expedited procedures may be submitted to the American Arbitration Association to the extent allowed by the Ted Stevens Act and USAG's or the USOPC's bylaws.