

Chapter 13 – Grievance and Disciplinary Procedures

13.1 General Disciplinary Procedures

13.1.1 Scope of General Disciplinary Procedures

Chapter 13 concerns procedures for the resolution of grievances and the discipline of USA Fencing members, and National Team Disciplinary Procedures. The procedure in this Chapter will be used to file the following types of grievances:

- a. Administrative Grievance. USA Fencing or any member of USA Fencing may file a complaint pertaining to any matter within the jurisdiction of USA Fencing, including but not limited to any alleged violation of or grievance concerning: (i) any USA Fencing rule or regulation, (ii) any USA Fencing program or service, (iii) any provision of USA Fencing's Bylaws, or (iv) any provision of the Ted Stevens Olympic and Amateur Sports Act.
- b. Disciplinary Proceeding. USA Fencing or any member of USA Fencing may file a complaint against any member of USA Fencing, or former member of USA Fencing if the action occurred while the person or club was a member, regarding any alleged violation of USA Fencing's Codes of Conduct, USA Fencing's 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 USA Fencing competition or protected competition. Any such athlete, official or coach may file a protest or complaint pertaining to any such denial of that individual's opportunity to participate in a USA Fencing National Team program.

Provided, however:

- If the proposed discipline involves, or may involve the USA Fencing member being removed from a USA Fencing or USOC team, or being precluded from an opportunity to compete at any event, then, except as otherwise provided herein the National Team Disciplinary Procedures (13.2.3) adopted by USA Fencing shall be utilized;
- Any protest or complaint by a USA Fencing National Team Coach who has a separate contract with USA Fencing shall be governed by and handled as provided in that contract;
- If a member of USA Fencing is on a team representing USA Fencing or the USOC, such member may be subject to immediate discipline, including, but not limited to being removed from a team, banned from participating at a competition, or sent home, as set forth in the Expedited Discipline Procedures set forth in [Chapter 13.1.8](#) or in other procedures adopted by the USOC; and
- A final decision of a referee or tournament official or other authority during a competition regarding a matter governed by the USA Fencing Rules of Competition and within the jurisdiction of the referee, official or authority under such Rules, shall not be reviewable through, or the subject of, these complaint procedures. Allegations of fraud, corruption, collusion or other comparable misconduct of a USA Fencing referee in violation of the Referee Code of Conduct shall fall under the initial jurisdiction of the Referee Commission. Other complaints or grievances are subject to these complaint procedures without regard to whether the respondent is a referee or tournament official.

13.2 Manner of Filing

The complainant shall file the written complaint with the USA Fencing Ethics Committee or the USA Fencing National Office. When filing a report for SafeSport violations, individuals should use the "USA FENCING SAFESPORT ABUSE/MISCONDUCT REPORTING FORM" located (link). SafeSport complaints can be made anonymously and are not subject to the signature requirement. The complaint, shall set forth in clear and concise language:

- a. The name and addresses of the parties;
- b. Alleged violations, grievance, denial or threat to deny,
- c. The facts which support the allegations,
- d. The legal basis which supports the relief requested
- e. The relief requested,
- f. And, the competition that is subject of the complaint, if applicable.
- g. Except in the case of SafeSport complaints, the complainant will sign the complaint, attesting to its good faith and validity.

A complaint that is filed that is not in accordance with 13.2, will render the filing ineffective and the complaint will consider not to have been filed.

13.2.1 Disciplinary Panels

Definitions

The following terms shall have the following meanings for this Chapter:

- "Fencer" shall mean those who are currently actively engaged in amateur competition in fencing on a local, national or international level or who have represented the United States in fencing in international competitions within the previous ten (10) years.
- "Disinterested" shall mean a person who will not be personally affected by the outcome of a panel hearing and none of whose relatives, significant others, students, coaches, or club-mates will be directly affected by the outcome of a panel hearing. If all persons complaining and responding to a complaint or protest agree, the "Disinterested" requirement may be waived.
- "Executive Director" shall mean the Executive Director of USA Fencing or his or her designee.
- "Panel" shall mean a panel consisting of not less than three (3) Disinterested USA Fencing members (one or more of whom may, but need not be members of the Board of Directors). At least 20 percent of the membership of the Panel shall be USOC Athletes as defined in this chapter, provided, however, no USOC Athlete shall be contending for a team in the same event as the person subject to potential discipline. The Panel and its Chair shall be selected by the Executive Director, provided, however, that if the Executive Director is not Disinterested, they shall be selected by the President of USA Fencing or by the President's Disinterested designee.
- "Panel Report" shall mean the written report prepared by the Panel consisting of its findings of fact and recommendation(s), which may include concurring or dissenting

reports.

- “USOC” shall mean the United States Olympic Committee, which includes U.S. Paralympics.
- “USOC Athlete” shall mean a fencer who has competed in fencing at the Olympic Games, Paralympic Games, Pan American Games, Parapan American Games, or World Championships within the previous ten (10) years or has finished in the in the top half of the USA Fencing’s Division 1 points list in the previous twenty four months.

Procedures

- A. At the request of an officer or director of USA Fencing (including an officer of a division of USA Fencing), a Panel shall be appointed under these Procedures to resolve grievances or disciplinary issues
- B. If the person selecting the Panel deems it appropriate, or at the request of the Chair of the Panel, USA Fencing shall designate a person to present evidence and argument to the Panel on its behalf, including but not limited to the type(s) of sanctions that USA Fencing believes are appropriate for the alleged infraction.
- C. The Executive Director shall inform the parties in writing of the charges which have been referred to the Panel, the names of the members of the Panel, and the name of the person, if any, who will present evidence to the Panel, and the possible discipline or sanctions that could be requested or imposed.
- D. If any party shall object to any member of the Panel on cognizable grounds such as lack of Disinterest, bias or incapacity,, then that party shall inform the person that named the Panel, who shall have the discretion to replace the Panel member, subject to further objection to the named replacement on cognizable grounds.
- E. The Panel shall conduct a Hearing at a time and place determined by the Chair of the Panel. The Chair of the Panel shall inform the parties of the date, time and place of the Hearing, and the manner in which the Hearing shall take place. The Hearing may be held in person, by teleconference, or as may otherwise be directed by the Chair of the Panel.
- F. The Hearing may be adjourned from time to time as deemed necessary by the Chair of the Panel in order to obtain additional information, obtain testimony from witnesses or receive written submissions from any party. At or prior to the Hearing, if available, all parties shall receive copies of any written information provided to the Panel members concerning the Hearing or any charges or allegations.
- G. The Panel is not bound by the rules of evidence. Witnesses, may testify in person, by telephone or video, or if there is no objection, by written declarations or affidavits.
- H. Parties shall have the rights at any hearing:
 - a. To appear personally and be represented by counsel or other representative of his choosing .
 - b. To cross-examine all witnesses and present any additional relevant evidence.

- c. To testify on his/her own behalf, or remain silent.
 - d. To address the Panel or otherwise make a statement of position personally or through his/her counsel or representative.
- I. As soon as practicable, but no later than two weeks after the close of the Hearing, the Panel shall prepare the Panel Report and submit it to the Executive Director. The Executive Director shall send a copy of the Panel Report to the accused and each member of the Board of Directors or its designee within one week of receiving it.
 - J. Any sanctions proposed or directed by the Panel shall be effective unless they are disapproved by the Board of Directors, or its designee within 30 days, provided, however, any proposed sanction which provides for the suspension, denied continuation of membership to, or expelling of the member shall not be effective unless such recommendation is approved by a 2/3 vote of the Board as provided by the Bylaws. The Board of Directors or its designee may stay the imposition of any sanction until the Board can vote to approve, disapprove, or modify the sanction.
 - K. Absent extraordinary circumstances, the failure to comply with any time limitations set forth herein shall not be grounds to overturn or prohibit the imposition of sanctions.
 - L. OTHER RIGHTS OF THE ACCUSED – Persons potentially subjected to discipline shall have the rights set forth herein and set forth in the Bylaws of USA Fencing, the Constitution and Bylaws of the United States Olympic Committee, and the Ted Stevens Olympic and Amateur Sports Act.
 - M. EXPENSES OF THE ACCUSED – Except as otherwise provided by the Board, all expenses of the accuseds in connection with any proceeding hereunder, including counsel, travel and any transcription costs, shall be their own responsibility. The hearing shall be transcribed only at the expense of the accused and at his or her expense. Audio or video recordings of the hearing shall not be permitted. Except in connection with any appeal, the record of the hearing shall be kept confidential by the parties and the Panel.
 - N. APPEALS TO THE BOARD OF DIRECTORS – Decisions of the Panel may be appealed to the Board of Directors of USA Fencing or its designee, of which at least 20% must be USOC athletes as defined in this chapter. Any such appeal shall be conducted on the record of the Panel hearing, including but not limited to the Panel's report, and not by a hearing *de novo*. The parties shall have the right to present argument to the Board or its designee, but not new evidence, in connection with the appeal. The Board of Directors, or its designee, may approve, disapprove or modify the sanction proposed or directed by the Panel. Unless it elects to impose a more stringent sanction than that recommended by the Panel, the Board shall not be required to provide a written opinion or otherwise explain its decision.
 - O. APPEALS TO ARBITRATION - Subject to the provisions herein, any party may appeal to the American Arbitration Association (AAA) a decision of the USA Fencing Board of Directors or its designee that approves or modifies sanctions recommended by a Panel.

To initiate such an appeal, the appealing party shall file a claim with the AAA with notice to **USA FENCING**. The arbitrator(s) appointed by the AAA shall have the

authority to decide the matter in accordance with the Commercial Rules of the AAA, as provided for by the Ted Stevens Olympic and Amateur Sports Act, as amended from time to time (36 U.S.C. §§ 220501 et seq.). The person commencing the arbitration shall be responsible for any filing fees of the American Arbitration Association, but the fees may be apportioned by the arbitrator(s) pursuant to the Commercial Rules of the AAA. To the extent arbitration hearings or proceedings are conducted, all such arbitration hearings or proceedings shall be conducted in Colorado Springs, Colorado. However, for good cause shown by clear and convincing evidence, a party may petition the arbitrator(s) to conduct the hearing or proceedings in a different location.

Hearings and proceedings may also be conducted telephonically if permitted by the arbitrator(s). The arbitration shall be conducted on the record of the Panel hearing, including but not limited to the Panel's report, and not by a hearing *de novo*, except upon a showing by clear and convincing evidence that the procedures at the Panel hearing deprived the accused of procedural due process. The standard of review of the Panel's decision, and of any decision by the Board or its designee to modify the sanctions recommended by the Panel in a manner detrimental to the accused, shall be arbitrary and capricious.

The arbitration shall be governed by the laws of the State of Colorado and the United States. The arbitrator(s) will have no authority or jurisdiction to award compensatory, consequential, punitive or exemplary damages, and any demand for such damages shall be a nullity. Except for AAA fees as provided for above, each party shall bear his, her or its own attorneys' fees and other costs and expenses. The arbitrator(s) shall issue a reasoned decision explaining the award. The award of the arbitrator(s) shall be final, binding and conclusive on all parties.

13.3 Removal from Team, Loss of Points and/or Funding

13.3.1 General Principles

A fencer may be passed over in selection, removed from a team after selection, denied funds, have points removed that are improperly earned or lose eligibility for international selection for cause. Such cause shall be limited to:

- Doping based on a confirmed positive of a "B" sample in accordance with U.S. Anti-Doping Agency protocol; OR
- Disciplinary reason, for serious misconduct detrimental to fencing; OR
- Inability or unwillingness to participate fully in all significant team activities; OR
- Injury or other incapacity which will significantly detract from the fencer's performance; OR
- Failure to maintain a reasonable program of training, conditioning and/or competition; OR
- Ineligibility by reason of U.S. citizenship status at the start of the Olympic/Paralympic team selection cycle, (i.e., points will not be awarded to non-citizens at competitions which count for selection of the Olympic/Paralympic Team until fencer is a U.S. citizen.). The USOC will consider a waiver to those fencers who can demonstrate that they could become citizens before the final selection competition of USA Fencing.

13.3.2 Expedited Grievance Steps

Scope

These procedures are intended to be used once a team has staged (e.g., gathered at any point in outside the U.S. for purposes of traveling or participating at a competition), when a fencer or cadre member including coaches, administrators or other staff:

- contests being removed from a team;
- contests an improper denial of a place on a team selected using criteria specified by USA Fencing;
- contests an improper preclusion by USA Fencing of his/her opportunity to compete at any competition;
- is or may be subjected to discipline by USA Fencing, whether the action on which any proposed discipline is based occurred before or after the team has staged.

Reimbursement of Fencer's Expenses

All expenses, including counsel, shall be the responsibility of the fencer or cadre member.

Appeals

A fencer or cadre member may request that the USA Fencing committee responsible for team selections overrule any decision made by the Team Panel. A fencer or cadre member may request that the Board of Directors of USA Fencing, or its designee, overrule any decision made by the Team Panel or by the USA Fencing committee responsible for team selections. Such rights to appeal are subject to there being time available for the body to accept or act on any request. In the absence of any action by such an appellate body, the decision of the Team Panel or the lower body that has acted shall be the decision of USA Fencing.

Procedures

- The Team Leader shall inform the fencer and any Other Affected Athletes of:
 - The issues or allegations which have been referred to the Team Panel.
 - The date, time and place of Hearing, and the manner in which the Hearing shall take place. The Hearing may be held in person, by teleconference, or as may otherwise be directed by the Team Leader.
- The Panel shall conduct a Hearing at a time and place determined by the Team Leader. The Hearing may be adjourned from time to time as deemed necessary by the Team Leader in order to obtain additional information, obtain testimony from witnesses or receive written submissions from any party. At or prior to the Hearing, if available, the fencer or any Other Affected Athlete shall have the right to receive copies of any written information provided to the Panel members concerning the Hearing or any charges or allegations.
- The Panel is not bound by the rules of evidence. Witnesses may testify in person, by telephonic instrument, or if there is no objection, by written declarations or affidavits.
- The fencer and any Other Affected Athlete shall have the rights:
 - To appear personally and be represented by counsel at the Hearing.
 - To cross-examine all witnesses and present any additional relevant evidence.

- To testify on his/her own behalf, or remain silent.
- To address the Panel or otherwise make a statement of position personally or through his/her counsel or representative.
- As soon as practicable after the close of the Hearing, the Team Panel shall prepare the Team Panel Report and submit it to the Executive Director. The Executive Director shall send a copy of the Team Panel Report to the fencer, any Other Affected Athlete, and each member of the USA Fencing committee responsible for team selections within one week after receiving it.
- The recommendation(s) of the Panel shall be effective and implemented unless stayed by the USA Fencing committee responsible for team selections or the Board of Directors or its designee.
- Absent extraordinary circumstances, the failure to comply with any of the time limitations set forth herein shall not be grounds to overturn the decision in question, or, to prohibit the imposition of sanctions.
- Nothing herein shall preclude any fencer or Other Affected Athlete, during the procedures set forth above or at its conclusion, from seeking to enforce or protect his/her rights under any provision of the Bylaws of USA Fencing, or the Constitution or Bylaws of the USOC, including the right to seek the intervention of the USOC CEO or to submit any dispute to arbitration.

13.2.3 National Team Disciplinary Procedures

In the event of any alleged breach of the USA Fencing Code of Conduct, a disciplinary panel will be convened on site immediately and will consist of the following individuals, if present and not disqualified by a conflict of interest:

- Chief of Mission
- Team Captain
- Team Leader/Manager
- A team coach whose fencer(s) are not involved
- A fencer over 18 years of age

The hearing to investigate charges, recommend discipline if appropriate, and where necessary to impose disciplinary measures shall be conducted at a time and place and in a manner determined by the highest-ranking member of cadre present (ranked highest to lowest from the preceding list top-down). The hearing shall provide the accused due process rights as follows: The right to be present; the right to be represented; the right to confront and question witnesses; the right to call witnesses and the right to address the panel. Promptly following the conclusion of any such hearing, the Disciplinary Panel shall report to the Director of Sports Performance, National Weapon Head Coach, and representative from the AAC the nature of the charges, the conclusion of the investigation and any discipline imposed or recommended.

Activity:

- Loss of specified privileges at the competition
- Involuntary withdrawal or bar of the offending individual from that day's activities
- Involuntary withdrawal or bar from the entire competition
- Offending individual sent home
- Other sanctions as deemed appropriate, including assessment of any damages caused by the misconduct
- Recommendation of post-competition sanctions as deemed appropriate

If discipline cannot be adjudicated at the competition, the Director of Sports Performance, National Weapon Head Coach, and representative from the AAC may require a report from the

Disciplinary Panel and is empowered to mete out sanctions or refer the matter to the Board of Directors of USA Fencing, or its designee, for further investigation and potential discipline. The consequential costs of any disciplinary action imposed by the Panel or by the Director of Sports Performance, National Weapon Head Coach, and representative from the AAC and any reasonable expenses incurred by USA Fencing or its members in connection with the disciplinary proceeding shall be the responsibility of the party being disciplined.

Appeal from the decision of a Disciplinary Panel may be made by the individual or individuals involved to the Director of Sports Performance, National Weapon Head Coach, and representative from the AAC within 15 days of receipt of notice of the panel decision. The decision may be delivered orally at the time of the Hearing. The decision of the Disciplinary Panel may be appealed to the Director of Sports Performance, National Weapon Head Coach, and representative from the AAC, the Board of Directors of USA Fencing, or its designee, at the election of the appealing party. The body to which the appeal is addressed shall appoint a panel to hear the appeal and render a final decision as expeditiously as reasonably possible. These rules and regulations have been promulgated for the protection of all fencers, coaches, officials and others under the authority of USA Fencing.

13.2.3(a) National Team Dispute Resolution

This dispute resolution procedure is intended to manage conflicts and to foster strong relationships between international fencers, coaches and USA Fencing staff.

13.2.3(b) Scope of National Team Dispute Resolution

This dispute resolution procedure applies to a complaint by an Aggrieved Party against a National Coach, as those terms are defined below.

To be eligible to use this procedure, a complaint must pertain to a National Coach's role as an international coach on behalf of USA Fencing, in contrast to a dispute about the National Coach's role as a private fencing coach, fencing club administrator, or USA Fencing member. Examples of matters that might come within the scope of the dispute resolution procedure, include, but are not limited to, actual, apparent, or potential conflicts of interest by the National Coach, allocation of coaching resources during international competitions, selection for international tournaments, selection of dates and locations of training camps, other requirements imposed by a National Coach, allocation of USA Fencing funds by a National Coach, delegation of responsibilities by the National Coach to a third party, and the National Coach's conduct.

This dispute resolution procedure is not intended to displace informal conversations and other informal resolutions.

Definitions

The following terms shall have the following meanings:

- "Aggrieved Party" shall mean a fencer who is a current representative of USA Fencing international fencing competition or has a material chance of representing USA Fencing in international fencing competition in the near future, when pursuing his or her own interests; the parent or guardian of a minor fencer, acting as the minor fencer's representative, where the minor fencer is a current representative of USA Fencing in international fencing competition or has a material chance of representing USA Fencing in international fencing competition in the near future, when pursuing the minor fencer's interests; or the personal coach, if such coach is a USA Fencing member, of a fencer who is a current representative of USA Fencing in international fencing competition, or has a material chance of representing USA Fencing in international fencing competition in the near future, when pursuing the fencer's interests or the coach's own interest.
- "Athlete Council" shall mean, the USA Fencing Athlete Council.
- "Executive Director" shall mean the Executive Director of USA Fencing.

- “Director of Sports Performance” shall mean the Director of Sports Performance of USA Fencing.
- “National Coach” shall mean, a coach employed or contracted by USA Fencing to represent USA Fencing in international fencing competition or such a coach’s designee, including, but not limited to, a Team Manager, when such designee is officially recognized by USA Fencing in the designee’s role and has maintained, or is expected to maintain, that role for more than two (2) months.

Procedures

- A. The Aggrieved Party is encouraged to discuss the matter directly with the National Coach.
- B. The Aggrieved Party may discuss the matter informally with the Director of Sports Performance before or after discussing the matter with the National Coach.
- C. At any time during the dispute resolution process, the Aggrieved Party may invite an Athlete Council member to facilitate the Aggrieved Party’s interactions under the dispute resolution process. The Athlete Council member may decline the Aggrieved Party’s request for any or no reason or may refer the invitation to another Athlete Council member. The Aggrieved Party shall have the right to have any Athlete Council member so invited:

Be present at any telephonic or in-person meetings under the dispute resolution process between the Aggrieved Party and the National Coach or the Director of Sports Performance and be heard by the National Coach or Director of Sports Performance in a reasonable manner.

- D. The Aggrieved Party has the right to submit a written complaint concerning the matter to the Director of Sports Performance. The submission of a written complaint concerning the matter to

the Director of Sports Performance by an Aggrieved Party concerning a National Coach’s role as an international coach on behalf of USA Fencing initiates this dispute resolution procedure.

- E. The Director of Sports Performance shall make a determination whether the complaint has sufficient merit to proceed and is otherwise not deficient. To this end, the Director of Sports Performance may conduct reasonable inquiries.

If the Director of Sports Performance determines the complaint lacks sufficient merit to proceed or is otherwise deficient, he or she shall inform the Aggrieved Party of such determination in writing within two (2) weeks of the receipt of the complaint.

If the Director of Sports Performance determines that the complaint has sufficient merit to proceed and is otherwise not deficient, he or she shall investigate the matter as appropriate and give a written opinion (in addition to any other communications that the Director of Sports Performance may have with the Aggrieved Party) on the matter to the Aggrieved party within two (2) weeks of the receipt of the complaint, unless the matter has been stayed consistent with [Chapter 13.2.3 \(G\)](#). The Director of Sports Performance’s goals in issuing the written opinion shall include, but not be limited to, advancing a fair resolution of the conflict and keeping the aggrieved party appropriately informed.

Even though the complaint has sufficient merit to proceed and is otherwise not deficient, the Director of Sports Performance nonetheless may, at any time during the dispute resolution process, conclude in matters of sufficient seriousness that the matter should be considered, and perhaps exclusively, under other disciplinary procedures, such as [Chapter 13.2.3 \(A\)](#). If so, the Director of Sports Performance may request that those disciplinary procedures be initiated consistent with those procedures.

- F. During the investigation, the Director of Sports Performance may (and generally will) discuss the matter with the National Coach and may share the complaint with the National Coach. The National Coach shall respond to any Director of Sports Performance's inquiries within five (5) days of such inquiries and otherwise discuss the matter with the Director of Sports Performance. If the Director of Sports Performance requests that the National Coach's response be in writing, the National Coach shall do so within five (5) days of such request. The Director of Sports Performance may share the National Coach's response(s), written or otherwise, with the Aggrieved Party. The National Coach's obligations shall not supersede, or otherwise be implemented in a manner inconsistent with the National Coach's due process rights.
- G. The Director of Sports Performance may request that the Aggrieved Party and the National Coach enter into mediation or arbitration. This may include mediation and arbitration provided by USA Fencing or by an individual or individuals designated by the Director of Sports Performance. In the event that the Aggrieved Party and the National Coach agree to mediation or arbitration, the dispute resolution procedure shall be stayed until the mediator(s) or arbitrator(s) concludes such mediation or arbitration or until the Director of Sports Performance terminates such mediation or arbitration.
- H. If the Director of Sports Performance's position is unfilled or if the Director of Sports Performance does not respond within the two (2) week limit, the Aggrieved Party may contact in writing the Executive Director about the unfulfilled position or the failure of the Director of Sports Performance to act and submit the written complaint to the Executive Director for his or her action. In such an event, the dispute resolution process shall be followed, with the Executive Director fulfilling those obligations of the Director of Sports Performance and within the two (2) week limit beginning the date the Executive Director receives such written complaint.
- I. The initiation or resolution of this dispute resolution process shall not prejudice the Aggrieved Party from the ability to seek appropriate relief or other appropriate procedures.