

# USA CLIMBING JUDICIAL COMMITTEE PROCEDURES

**Amended & Restated  
Approved February 12, 2020 and Effective as of January 6, 2020**

USA Climbing’s Judicial Committee uses these procedures, established pursuant to Section 15.9 of USA Climbing’s Bylaws last amended November 7, 2020 and as further amended from time to time (the “Bylaws”), to administer and resolve complaints submitted in accordance with the Bylaws, USA Climbing’s Rulebook last revised January 6, 2020 and as further revised from time to time (the “Rulebook”), and the Ted Stevens Olympic and Amateur Sports Act. The Bylaws, the Rulebook and these Procedures are posted on the USA Climbing website.

## PROCESSING OF COMPLAINTS

### Initial Steps

#### General

Complaints must be submitted to the USA Climbing Judicial Committee at [judicial@usaclimbing.org](mailto:judicial@usaclimbing.org). Complaints submitted to the Judicial Committee must comply with the requirements specified in Bylaws Section 15 and the Rulebook (the “Initial Requirements”). The Initial Requirements specified in the Bylaws and Rulebook include that a complaint must:

- be written in English (Rulebook Section 14.2.4)
- contain an identification of the complainant, description of the allegation, and remedy requested (see Bylaws Sections 15.3 and 15.13). Anonymous complaints may be made, although anonymity may make it difficult for the complaint to be investigated or properly addressed (See Bylaws Section 15.16);
- include a list of all other individuals, together with their contact information, who may be adversely affected by a decision rendered on the complaint if the complaint involves selection to participate in a competition, or a statement that the complainant is unaware of such contact information (Bylaws Section 15.13);
- be within the jurisdiction of the Judicial Committee to adjudicate (see, e.g., Bylaws Sections 15.1 and 15.2 (Jurisdiction), 15.6 (Doping Decisions), 15.7 (U.S. Center for SafeSport), and 15.8 (Field of Play Decisions); Rulebook Sections 14.2.1 (SafeSport, see also below), 14.2.5 (96-hour Rule), 3.7.4 (Registration Deadlines) and 3.12 (Invitation Acceptance));
- be accompanied by the requisite non-refundable filing fee except for SafeSport complaints or other complaints regarding athlete safety (see Bylaws Section 15.4; Rulebook Section 14.2.2); and
- be filed within 180 days of the occurrence of the alleged violation or grievance, unless the complaint alleges a violation of USA Climbing’s SafeSport policies, in which case there is no time bar (see Bylaws Section 15.5).

If the complaint does not meet the Initial Requirements, the complaint shall be dismissed (Rulebook Section 14.2.3). The dismissal shall briefly explain the deficiency in the complaint.

#### SafeSport

If the complaint alleges a violation of USA Climbing's SafeSport policies involving sexual misconduct, sexual abuse, or other allegations that accompany an allegation of sexual misconduct or sexual abuse, the Judicial Committee shall refer the complaint to the U.S. Center for SafeSport for adjudication as required by Bylaws Section 15.7(b) and Rulebook Section 14.2.1. The U.S. Center for SafeSport will conduct its adjudication of these matters under its own policies and procedures. Copies of those documents are available at <https://safesport.org/files/index/tag/policies-procedures>. USA Climbing must also refer suspected child abuse or neglect (including sexual misconduct) to the appropriate legal authorities, which is separate from notification to the U.S. Center for SafeSport or USA Climbing. For state-by-state reporting information, see [www.childwelfare.gov](http://www.childwelfare.gov). If the Judicial Committee is notified of suspected child abuse or neglect (including sexual misconduct), the Chair or his/her designee, in addition to referring the matter to the U.S. Center for SafeSport, will also refer the matter to the CEO of USA Climbing with an explicit instruction that the CEO notify the proper authorities unless the CEO is aware that authorities have already been notified. If the U.S. Center for SafeSport refers the matter back to USA Climbing or the Judicial Committee for any reason, then the Judicial Committee will review the matter under these Procedures.

For other allegations of a violation of USA Climbing's SafeSport policies—not involving sexual misconduct or sexual abuse—the Judicial Committee may conduct its own Hearing under these procedures or may request that the U.S. Center for SafeSport accept jurisdiction over the complaint.

### **Hearing Panel Appointment**

Under Bylaws Section 15.10, upon receipt of a complaint the Judicial Committee shall appoint a Hearing Panel. All members of the Judicial Committee are required to disclose any relevant conflicts of interest with respect to the particularly proceeding being heard or parties involved in such proceeding. The Judicial Committee shall exclude any conflicted member from further review of the complaint. The appointment of the Hearing Panel shall be made by majority vote of the Judicial Committee, except that absent a vote to appoint a different Hearing Panel, the Hearing Panel will be deemed to consist of the full Judicial Committee (excluding any Judicial Committee member with a conflict of interest). The following requirements will also apply:

- Only members of the Hearing Panel Pool (as defined in Exhibit A hereto), the Judicial Committee, or the USA Climbing Athletes' Advisory Committee (if not members of the Board of Directors) may be selected for a Hearing Panel. In the case of Pool members that are law firms, the law firm must propose an individual to be reviewed and approved by USA Climbing's Nominating and Governance Committee prior to the Judicial Committee approving the individual's participation on a Hearing Panel.
- For Hearing Panels that do not consist of one or more members of the Judicial Committee, at least one panel member must be a lawyer with litigation experience willing to serve as Chair of the Hearing Panel.
- The Hearing Panel will have no fewer than three members (Bylaws Section 15.10(b)) and generally will not have more than five members.
- At least one Hearing Panel member must be an athlete meeting the eligibility requirements set forth in Section 11.8(a) and (b) of USA Climbing's Bylaws as required for Designated Committees.
- Hearing Panel members other than Judicial Committee members (who already are bound to disclose conflicts of interest as described above) must disclose any conflicts of interest with respect to the particular proceeding being heard or parties involved in such proceeding. The Hearing Panel shall exclude any conflicted members from further review of the complaint and,

upon such exclusion of a Hearing Panel member, the Judicial Committee may appoint a replacement Hearing Panel member (or shall appoint a replacement where such a replacement appointment would be necessary for the composition of the Hearing Panel to comply with Bylaws Section 15.10 or these Judicial Committee procedures.

- Any member of the Judicial Committee may request a vote of the Judicial Committee to select a Hearing Panel other than the full Judicial Committee itself.

If a complaint meets the Initial Requirements and is not dismissed, the Hearing Panel shall hold a hearing on the complaint.

## **SUSPENSION BEFORE FINAL RESOLUTION**

Consistent with Bylaws Section 15.9, USA Climbing or the Judicial Committee may provisionally suspend an individual accused of misconduct, pending investigation and/or final resolution of a complaint.

## **HEARING**

### **Basic Hearing Procedures**

Under Bylaws Section 15.10(e), if a complaint is not dismissed, the Hearing Panel shall hold a Hearing. The Hearing Panel will issue notice of the charges or alleged violations, with specificity and in writing (which may be via email), and possible consequences if the charges or violations are found to be true. (Bylaws Section 15.10(d)). Reasonable time will be provided between receipt of the notice of charges or violations and the Hearing with respect thereof, within which to prepare a defense. (Bylaws Section 15.10(d)). The Chair of the Hearing Panel or the Chair of the Judicial Committee shall identify to both sides of the complaint the appointed Hearing Panel members and provide to both sides the opportunity to promptly raise any objections to the Hearing Panel member appointments for good reason. The Chair of the Hearing Panel or, if the objection is to such Chair then by vote of the Judicial Committee excluding any conflicted members, will rule on any such objections. Any replacement of a Hearing Panel member will follow the same appointment mechanism as described above in the section "Hearing Panel Appointment."

The Hearing shall generally consist of a private, informal hearing on the complaint under Bylaws Section 15.10(e). Any deliberation or investigation regarding the potential dismissal of the complaint -- for example, due to failure to meet one or more of the Initial Requirements -- may be considered as included in such hearing. The Hearing Panel may set such timelines and other rules regarding the proceeding and conduct of the hearing as it deems necessary, so long as these rules are consistent with these Procedures and the Bylaws. For example, the Hearing Panel may conduct the hearing only on the basis of written (or electronic) submissions or it may conduct the hearing by teleconference if necessary or convenient to the parties. The Hearing Panel or other representatives of USA Climbing may conduct an investigation into any allegations included in the complaint.

### **Burden of Proof and Factors for Consideration**

Generally, the burden of proof shall be on the moving party (i.e. the complainant) and must be satisfied by the preponderance of the evidence.

The following examples are intended to provide a guide for Hearing Panels and prospective complainants and are not exhaustive.

*Requests for Deadline or Eligibility Waivers or Byes:* Where the Hearing Panel is considering a complainant's request for a waiver of a deadline or eligibility requirement or a bye (other than a bye explicitly granted under the Rulebook), the Hearing Panel generally shall not take into account:

- claims of injury, illness, isolated incidents of weather-related delay, or other personal hardship (see Rulebook Section 2.2.1(c) but see generally Rulebook Section 2.2.1), or
- claims that USA Climbing failed to remind the complainant of the deadline or eligibility requirement, if the deadline or eligibility requirement was publicly disclosed by USA Climbing in the Rulebook, on the USA Climbing web site, or otherwise.

Without limiting the foregoing, see Rulebook Section 5.23.6 (Byes).

*Complaints Relating to Suspension or Disqualification:* Where the Hearing Panel is considering a complaint objecting to USA Climbing's decision to suspend or disqualify a person based on background screening results or alleged inappropriate behavior either of which indicate an increased risk of harm to participants, the Hearing Panel shall uphold USA Climbing's suspension or disqualification decision unless (in addition to making the appropriate determinations with respect to any other relevant factors) the Hearing Panel determines, with a reasonable degree of certainty, that the person USA Climbing is seeking to suspend or disqualify does not pose a danger to the individuals with whom the person is expected to come into contact.

### **Enhanced Hearing Procedures**

At the timely written request of USA Climbing, or any party to the hearing, the Hearing Panel shall adhere to the enhanced procedural requirements defined in Bylaws Section 15.11. The enhanced procedures shall be used to the extent requested by the party and/or applicable to the proceeding. A request for enhanced procedures must be made by a complainant simultaneous with the submission of the complaint, and must be made by any other party to the complaint or by USA Climbing within two business days after being notified of the complaint.

Consistent with Bylaws Section 15.11, upon a request for enhanced procedures or otherwise, the Judicial Committee may reconstitute the Hearing Panel to include members with expertise required to implement those procedures. The reconstituted Panel must still comply with the requirements of Bylaws Section 15.10.

### **Expedited Hearing Procedures**

Consistent with Bylaws Section 15.12, a party may request an expedited hearing to resolve a matter relating to a competition that is scheduled such that compliance with normal procedures would not be likely to produce a sufficiently early decision to do justice to the parties.

### **Findings and Sanctions**

The Hearing Panel has the discretion to impose sanctions on an individual if it finds, based on a preponderance of the evidence, that the individual has violated USA Climbing's SafeSport Policies or other USA Climbing Codes or Rules. (By way of example and without limitation, SafeSport jurisdiction could arise where the conduct does not involve sexual misconduct, sexual abuse, or other allegations that accompany an allegation of sexual misconduct or abuse, or if the U.S. Center for SafeSport refers the matter back to USA Climbing or the Judicial Committee for any reason). Sanctions may range from a warning and a reprimand, to probation and monitoring, to suspension or expulsion from involvement with USA Climbing, including without limitation from serving in a USA Climbing-sanctioned manner with respect to a Youth Climbing Team or Collegiate Climbing Team.

### **Decision**

Under Bylaws Section 15.14, a majority of the Hearing Panel shall make a decision on the complaint in a timely fashion (Bylaws Section 15.10(f)). Also under Section 15.10(f), the Panel shall communicate its findings in a brief statement issued to the parties and to USA Climbing. The statement shall include: (1) a brief explanation of the reason(s) for the decision based solely on the evidence of record, and (2) the disciplinary measure applied or action taken, if any.

## **APPEAL**

In accordance with USA Climbing's Bylaws Section 15.15, any party may appeal the decision of the Hearing Panel to binding arbitration within 180 days of the issuance of the Hearing Panel's finding(s). The arbitration, including the payment of costs, will be subject to the applicable rules of the American Arbitration Association.

**EXHIBIT A**  
**Selection of the Hearing Panel Pool**

- a) The Judicial Committee members and members of the USA Climbing Athletes' Advisory Committee (but not if serving as members of the USA Climbing Board of Directors) are eligible to serve on Hearing Panels, provided that at least one Hearing Panel member must be an athlete meeting the eligibility requirements set forth in Section 11.8(a) and (b) of USA Climbing's Bylaws as required for Designated Committees. The Nominating and Governance Committee (the "NGC") will review and approve applications from others to serve on the pool ("Pool") from which other Hearing Panel members can be drawn. The NGC will endeavor to maintain the Pool consisting of:
  - i) Litigators (or law firms with litigation departments),
  - ii) Athletes meeting the eligibility requirements set forth in Section 11.8(a) and (b) of USA Climbing's Bylaws (for Designated Committees), and
  - iii) Other individuals.
- b) USA Climbing employees, officers and directors should not be considered for the Pool; subject to the foregoing, members of USA Climbing committees, but not members of USA Climbing's Board of Directors, may be considered for the Pool.
- c) Pool members should:
  - i) be at least 18 years of age;
  - ii) be a citizen or lawful permanent resident of the United States;
  - iii) possess maturity and integrity; and
  - iv) have the personal or professional experience that would make a person qualified to render a fair and impartial decision in a matter of great importance to the participants. Pool members who are litigators should be capable of serving as the Chair of the Panel, establishing procedures, ruling on motions and other matters, arranging for testimony to be taken under oath if requested by a party, arranging for a record to be made of the hearing if requested by a party, and rendering a statement in writing of the decision of the majority of the Hearing Panel.
- d) The NGC will provide to the Chair of the Judicial Committee, and will provide updates as they are made, the list of approved Hearing Panel Pool members, including a brief description of each (e.g., lawyer, athlete) and contact information.