



## **USA SURFING COMPLAINT RESOLUTION POLICY and CASE MANAGEMENT TIMELINE (Including SafeSport Discretionary Jurisdiction Matters)**

**Adopted: 8/20/20**

**Applies to: USA Surfing Board of Directors, Staff, Volunteers, Members or  
Former Members**

1. USA Surfing (“USAS”) or any member of USAS may file a Complaint (hereinafter “Complaint”) pertaining to any matter within the cognizance of USAS, including but not limited to any alleged violation of or grievance concerning: (i) any USAS rule or regulation, (ii) any USAS program or service, (iii) any provision of USAS Bylaws, (iv) any provision of the Ted Stevens Olympic and Amateur Sports Act relating to USAS’s recognition as a National Governing Body. (USAS Bylaw 13.1)
2. USAS or any member of USAS may file a complaint against another member of USAS, or former member of USAS if the action occurred while the individual was a member, regarding any alleged violation of USAS Code of Ethics, USAS Safe Sport Policy, or any other rule or regulation relating to conduct. (USAS Bylaw 13.1)
3. 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 USAS sanctioned competition or protected competition. (USAS Bylaw 13.1)
4. The US Center for SafeSport (“Center”) has the **Exclusive Jurisdiction** to investigate and resolve allegations that a Participant engaged in one of more of the following: (Safe Sport Code IV. A.)
  - a. Sexual Misconduct, including without limitation child sexual abuse and any misconduct that is reasonably related to an underlying allegation of Sexual Misconduct;
  - b. Criminal charges or Dispositions involving Child Abuse or Sexual Misconduct;
  - c. Misconduct related to reporting, where the underlying allegation involves Child Abuse or Sexual Misconduct;
  - d. Aiding and abetting, when it relates to the Center’s process;
  - e. Misconduct related to the Center’s process;
  - f. Other inappropriate conduct, as defined within the SafeSport Code.

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5. Any Complaint that satisfies any of the elements under the Exclusive Jurisdiction MUST be reported directly to the Center at (720) 531-0340 or via online at [Report A Concern or Complaint](#). There is no fee for filing a report.
6. The Center has the **Discretionary Jurisdiction** to investigate and resolve allegations that a Participant engage in one or more of the following:
  - a. Non-sexual Child Abuse;
  - b. Emotional and physical misconduct, including stalking, bullying behaviors, hazing and harassment;
  - c. Criminal charges or dispositions not involving Child Abuse or Sexual Misconduct;
  - d. Minor Athlete Abuse Prevention Policy or other similar Proactive Policy violations.

If the Center accepts discretionary jurisdiction, it will use the resolution procedures as set forth within the SafeSport Code. The Center may reassess its jurisdictional decision at any time. (SafeSport Code IV. C.)

7. Prior to the Center expressly exercising jurisdiction over particular allegations regarding a particular Participant, USAS has the authority to implement necessary and/or appropriate measures, up to and including a suspension, to address any allegations of misconduct. When USAS has reason to believe that the allegations presented fall within the Center's exclusive jurisdiction, USAS, while able to impose measures, may not investigate or resolve those allegations. (SafeSport Code V.)
8. When the allegations presented fall within the Center's discretionary jurisdiction, USAS may investigate and resolve the matter, unless and until such time as the Center expressly exercises jurisdiction over the particular allegations. (SafeSport Code V.)

If, and when, the Center expressly exercises jurisdiction over particular allegations regarding a particular Participant, USAS cannot issue in response to those allegations a suspension or other restriction that may deny or threaten to deny a Respondent's opportunity to participate in sport. USAS may implement any necessary safety plan(s) or temporary measure(s). (SafeSport Code V.)

9. The USAS Judicial Committee:
  - a. Generally, administers and oversees all administrative grievances and right to compete matters filed with USAS;
  - b. Identifies individuals who would be fair and impartial and who would have the qualifications and ability to serve on hearing panels;
  - c. Hears and renders a decision or appoints a panel to hear and render a decision, on grievances and disciplinary matters. (USAS Bylaws 8.15)

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10. Designation of Complaints. The following kinds of complaints may be filed with USAS:
  - a. Administrative Grievance. USAS or any member of USAS may file a complaint pertaining to any matter within the cognizance of USAS, including but not limited to any alleged violation of or grievance concerning: (i) any USAS rule or regulation, (ii) any USAS program or service, (iii) any provision of USAS's Bylaws, or (iv) any provision of the Ted Stevens Olympic and Amateur Sports Act relating to USAS's recognition as a National Governing Body;
  - b. Disciplinary Proceeding. USAS or any member of USAS may file a complaint against another member of USAS, or former member of USAS if the action occurred while the individual was a member, regarding any alleged violation of USAS Code of Ethics, USAS Safe Sport Policy, or any other rule or regulation relating to conduct; or
  - 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 USAS sanctioned competition or protected competition. (USAS Bylaws 13.1)
11. Jurisdiction. Any member of USAS, 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. (USAS Bylaws 13.2)
12. Manner of Filing. The complainant shall file the complaint with the Judicial 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. (USAS Bylaws 13.3)
13. Filing Fee. A complaint filed by an individual shall be accompanied with a \$250.00 filing fee. A complaint filed by an organization shall be accompanied with a \$500.00 filing fee, except that USAS is not required to pay a filing fee. The complainant may request that the filing fee be reduced or waived for reasons of financial difficulty. If such request is made, the Judicial Committee shall determine whether to reduce or waive the filing fee. (USAS Bylaws 13.4) There is no filing fee for a SafeSport Complaint.
14. Statute of Limitations. A complaint filed pursuant to USAS 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 Safe Sport disciplinary proceedings. (USAS Bylaws 13.5)
15. Anti-Doping Decisions. 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) shall not be reviewable through, or the subject of, these complaint procedures. (USAS Bylaws 13.6)

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16. SafeSport Decisions. A decision concerning a SafeSport violation of a sexual nature 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. (USAS Bylaws 13.7)
17. Field of Play Decisions. The final decision of a judge 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 judge) shall not be reviewable through, or the subject of these complaint procedures unless the decision is: (i) outside the authority of the judge to make, or (ii) the product of fraud, corruption, partiality or other misconduct of the judge. For purposes of this Section, the term “judge” shall include any individual with discretion to make field of play decisions. (USAS Bylaws 13.8)
18. Administration. The Judicial Committee shall generally administer and oversee all administrative grievances and right to participate matters filed with USAS. 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 to fair notice and a hearing prior to termination, provisional suspension, or permanent suspension, as outlined in Sections 13.10. through 13.15. The Judicial Committee may promulgate procedures in addition to those set forth in the USAS Bylaws for the effective administration of complaints filed with USAS. (USAS Bylaws 13.9) The Judicial Committee determines the extent of any investigation necessary to rule on the matter.
19. Hearing Panel. Upon the filing of a complaint, the chair of the Judicial Committee, after consultation with the other Committee members, shall appoint a hearing panel consisting of three (3) individuals to hear the complaint. The Judicial Committee shall also appoint a chair of the hearing panel from the three (3) individuals selected. Judicial Committee members may be appointed to and serve on the hearing panel. Other disinterested individuals identified by the Judicial 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. Members of the panel need not be members of USAS or involved in the sport of Surfing. All members of any hearing panel shall be disinterested individuals without conflict of interest to the individuals or situations being heard. (USAS Bylaws 13.10)
20. Conduct of the Proceeding. 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.

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The hearing may be conducted by teleconference or by electronic video screen communication, 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 a 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. (USAS Bylaws 13.11)

21. Expedited Procedures. Upon the request of a party, and if it is necessary to expedite the proceeding 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. (USAS Bylaws 13.12)
22. Complaints Involving Selection to Participate in a Competition. 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 if known, 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 if known, that may be adversely affected by a decision rendered on the complaint. The hearing panel may also determine that individuals not listed by either the complainant or the adverse party will be given notice. The hearing panel shall determine those individuals who must receive notice of the complaint. The hearing panel 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 will be bound by the decision of the hearing panel even though the individual chose not to participate. (USAS Bylaws 13.13)
23. Decision. 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. (USAS Bylaws 13.14) Where time dictates, they may issue an abbreviated decision with the reasoned decision to follow.

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24. Arbitration. 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. (USAS Bylaws 13.15)
25. A party may also have additional rights under Section 9 of the United States Olympic and Paralympic Committee (USOPC) Bylaws.
26. The Judicial Committee shall respond to Complaints with the suggested timelines, when possible, as follows:
  - a. The Judicial Committee acknowledges receipt of the Complaint to Complainant.
  - b. The Judicial Committee is convened to review said Complaint after acknowledgment of Complaint to Complainant.
    - i. The Judicial Committee determines the type of Complaint:
      - (1) SafeSport Exclusive Jurisdiction or
      - (2) SafeSport Discretionary Jurisdiction
      - (3) USAS Disciplinary, Administrative and Right to Participate\*
        - a. The Judicial Committee determines if the Complaint was properly filed and executed (USAS Bylaws 13.3 & 13.4)
        - b. If Complaint was not properly filed or if there is insufficient information to move forward, the Judicial Committee will advise the Complainant within 5 business days of the corrective measures required,
        - c. If Complainant does not respond within the time noted within the corrective measures, the Judicial Committee will deem an Administrative Closure of the matter.
    - ii. Exclusive Jurisdiction Complaints are sent to US Center for SafeSport and advises Complainant of same.
    - iii. Discretionary Jurisdiction Complaints, USAS Disciplinary, Administrative and Right to Participate\* proceed as follows.
  - c. The Judicial Committee notifies Respondent of Complaint after acknowledgment of a properly filed Complaint.
  - d. If necessary, the Judicial Committee appoints a Hearing Panel after notification to Respondent. The Judicial Committee may appoint one member of the Hearing Panel as the Investigator for the matter. The Investigator will compile any necessary documents required by the panel for the hearing.
  - e. The Hearing Panel sets a hearing date within a reasonable time after being appointed and advises Complainant and Respondent of hearing date after appointment. The hearing date may be changed/continued by agreement of all parties.
  - f. The Hearing Panel hears the matter and sets the date of Decision after the last day of the hearing.

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- g. The Hearing Panel Decision is sent to the parties, in writing after the Decision.
- h. JC adjourns matter.

\*Expedited Procedures – Section 13.12 - Upon the request of a party and if necessary, to expedite the proceeding to resolve a matter relating to a competition that is scheduled that compliance with regular procedures would not be timely to do justice to the 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.

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