



POLICY TYPE: *Governance*
POLICY TITLE: *Grievance*

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This Grievance Policy sets forth the policies for addressing grievances and disciplinary actions within the American Canoe Association.

Section 1. Designation of Complaints

The following kinds of complaints may be filed with the Grievance Committee of the ACA:

- a. **Administrative Grievance.** ACA or any member of ACA may file a complaint pertaining to any matter within the cognizance of ACA, including but not limited to any alleged violation of or grievance concerning: (i) any ACA rule or regulation, (ii) any provision of ACA's or a committee, council, or other subordinate body's Bylaws, (iii) any provision of the Ted Stevens Sports Act (36 U.S.C. sec. 220501 et seq.) relating to ACA's recognition as a NGB, or (iv) alleged noncompliance of USOPC bylaws.
- b. **Disciplinary Proceeding.** ACA or any member of ACA may file a complaint against another member of ACA, or former member of ACA if the action occurred while the individual was a member, regarding any alleged violation of the ACA Code of Conduct, ACA SafeSport policy, or any other rule or regulation relating to conduct.
- c. **Right to Compete.** Any athlete, coach, trainer, administrator or official may file a complaint pertaining to any alleged denial, or alleged threat to deny, of that individual's opportunity to compete in an ACA sanctioned competition.
- d. **Instruction-related concerns or complaints involving a certified instructor** should be addressed to the Safety Education and Instruction Council's Standards Committee.

Section 2. Jurisdiction

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

Section 3. Manner of Filing

To properly file a complaint under these procedures, the complainant must complete and submit an electronic Complaint Form [available here](#). This form is automatically emailed to the Chair of the Grievance Committee and the ACA Executive Director. The complaint shall set forth in clear and

concise language, preferably in numbered paragraphs:

- a. The full name of the Complainant and their ACA membership number. If the Complainant does not have an ACA membership number, then they must include an explanation of how they qualify to file a complaint under this policy.
- b. The alleged violation, grievance, denial or threat to deny, and
- c. The remedy or relief requested.
- d. Any supporting evidence and/or documentation supporting the complaint which can be uploaded via a link on the electronic Complaint Form.

Section 4. Statute of Limitations

A complaint filed under this Policy shall be filed within one hundred and eighty (180) days of the occurrence of the alleged violation, grievance, denial or threat to deny. This Statute of Limitations does not apply to Safe Sport-related allegations and complaints.

Section 5. 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.

Section 6. SafeSport Decisions

A decision concerning a safe sport violation adjudicated by the independent safe-sport 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 7. Field of Play Decisions

The final decision of an official 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 official) shall not be reviewable through the procedures for, or the subject of, these complaint procedures unless the decision is: (i) outside the authority of the official to make, or (ii) the product of fraud, corruption, partiality, or other misconduct of the official. For purposes of this Section, the term "official" shall include any individual with discretion to make field of play decisions.

Section 8. Administration

The Grievance Committee shall generally administer and oversee all matters subject to this policy. ACA will provide fair notice and opportunity for a hearing to any athlete, coach, trainer, manager, administrator, or official participating before declaring such person ineligible to participate. The Grievance Committee shall be responsible to ensure that all complaints are heard by a hearing panel in a timely manner and that all complaints are reviewed in a fair and impartial manner. Following any matter that comes before a hearing panel an order shall be issued pursuant to Section 12 (Decision) below. The Grievance Committee may promulgate procedures in addition to those set forth in this Policy for the effective administration of complaints.

Section 9. Initial Review of Complaint

Upon receipt of a complaint, the chair of the Grievance Committee, in consultation with the Executive Director, shall review the Complaint Form and shall notify the complainant of any issues that, on their

face, could result in dismissal of the complaint, such as failure to comply with the applicable statute of limitations. There is a [link on this form](#) that can be used to upload related documentation.

In the case of a properly filed dispute, the Chair shall acknowledge receipt of the complaint to the complainant within seven business days.

Section 10. Conduct of the Proceeding

a. Appointment of Hearing Panel.

The hearing panel (the "Hearing Panel") shall administer and oversee matters referred to it under this Policy according to the procedures set forth below and will ensure that all complaints are heard in a timely manner. Specifically, a hearing may not exceed 90 days without just cause for delay.

Within 8 business days after receipt of a dispute, the Chair of the Grievance Committee shall appoint a Hearing Panel consisting of three (3) disinterested and impartial individuals to hear the complaint. At least one member of the Hearing Panel shall be an athlete meeting the definition for "Elite Athlete" as set forth in the ACA Bylaws. The Chair of the Grievance Committee will also name one of the individuals of the Hearing Panel as Chair of the Hearing Panel. The Ethics and Grievance Committee will make the appointments then disclose the names of the hearing panelists to the Complainant, the Adverse Parties, and the NGB.

Members of the panel (other than the Athlete Representative) need not be members of the ACA or involved in paddling.

If any party with a direct interest in the outcome believes that a Hearing Panel member is neither disinterested nor impartial, that party may challenge the participation of that Hearing Panel member to the Chair of the Grievance Committee. The Hearing Panel member in question shall thereafter be presented with the challenge and may, upon review, recuse themselves. If the Hearing Panel member in question does not recuse himself/herself, the Chair of the Grievance Committee shall review the objection to, and comments of, the Hearing Panel member in question. If the Chair of the Grievance Committee determines in their sole discretion that the Hearing Panel member's service on the Hearing Panel may pose an appearance of impropriety, they may replace that member. The Chair may also determine in their sole discretion that there is not an appearance of impropriety and may dismiss the challenge.

b. Affected Parties.

Affected Parties are individuals or entities that are named as the Respondent in the Dispute, and those who will be directly impacted by the outcome of a Dispute. The Hearing Panel shall ensure that any Affected Parties are provided with the relevant materials including a copy of the Complaint Form and any supporting documentation provided by the complainant or the ACA. Furthermore, the consequences or remedy requested if found to be violated will also be included in the notice. The Hearing Panel shall provide this information to the Affected Parties within 5 business days of the appointment of the Hearing Panel.

The Hearing Panel may also determine that individuals not named by the Claimant or Respondent as an Affected Party shall be considered an Affected Party and given notice. Any party named as an Affected Party shall be eligible to participate in the Dispute, including the hearing. Any party notified of the Dispute as an Affected Party shall be bound by the decision of the Hearing Panel, even if that

party chooses not to participate.

c. Documents Provided to Panel

Promptly after the appointment of the Hearing Panel, the Executive Director or Chair of the Grievance Committee will provide to the Chair of the Hearing Panel a copy of each of the following documents: (i) the Complaint; (ii) all materials filed with the Complaint, if any; and (iii) any relevant documents in the possession of the ACA. The Hearing Panel shall ensure that all relevant parties have copies of all materials and relevant documents.

Parties to the process may communicate with the Hearing Panel by emailing the Chair of the Hearing Panel with a copy to the Chair of the Grievance Committee. Evidence may be submitted to the Hearing Panel by emailing the Chair of the Hearing Panel with a copy to the Chair of the Grievance Committee.

d. Dismissal of Complaint (Basis for a Motion to Dismiss)

The Hearing Panel shall have the authority to dismiss a Complaint if it determines that the Complaint is not appropriate for the hearing process, including but not limited to a lack of jurisdiction or inappropriate subject matter. In addition, any Affected Party may file a motion to dismiss based on such grounds, which the Hearing Panel will decide upon after receiving written arguments from the Claimant and the Affected Parties and, if requested by the Hearing Panel, oral arguments.

e. Response

The Respondent shall have twenty (20) business days from receipt of the complaint to respond to the complaint or file a motion to dismiss. Respondent may request additional time from the Hearing Panel to file the response, which may be granted or denied in the Hearing Panel's determination. The Hearing Panel shall ensure that the response and all submitted documentation is sent to the Claimant.

f. Discovery; Exchange of Documents, Witness Lists and Evidence

The Hearing Panel shall determine whether, and to what extent, discovery and exchange of documents will be allowed or required, subject to the understanding that the hearing process is meant to be efficient and streamlined. The Hearing Panel shall also set the deadline for the exchange of witness lists and evidence to be presented at the hearing. Once the identities of any witnesses are disclosed, the Hearing Panel shall send that list to all parties. The delivery of the final answer of the Hearing Panel will be delivered in writing to the party who filed the complaint.

g. Time and Place of Hearing

The Chair of the Hearing Panel will select the time and place/medium for the hearing so as to have the hearing occur at the earliest convenient date consistent with the need to provide the parties with adequate time to prepare. In any event, the hearing shall be scheduled not more than sixty (60) business days from the last filing by either party unless the hearing is to be expedited or the Hearing Panel specifically determines that a longer period is necessary in the interest of justice. The Hearing Panel shall also shorten all time periods as it deems necessary and appropriate in order to render a decision in a timely manner under the circumstance of the Dispute and taking into consideration any related deadline(s), forthcoming competition(s) or event(s).

h. Manner of Hearing

The Chair will conduct the hearing in person, by telephonic conference call, video conference or other similar electronic means whereby all parties participating may hear and speak to each other during the hearing. The Chair will communicate information about the hearing schedule to all Affected Parties. An in-person hearing shall not be mandatory, unless the Hearing Panel, in its sole discretion, determines an in-person hearing is required.

i. Minimum Standards for Hearing

The procedures to be followed at the hearing shall, at a minimum, include the opportunity for each party to (i) be represented by counsel (at that party's expense), (ii) present oral or written evidence, (iii) cross-examine witnesses, and (iv) present such factual or legal claims as may be relevant to their respective claim(s) or defense(s).

j. Conduct of the Hearing

The Chair of the Hearing Panel shall preside over the hearing and shall make evidentiary rulings and otherwise control the conduct of the hearing. The testimony of witnesses shall be taken under oath administered by the Chair of the Hearing Panel. The rules of evidence applicable to court proceedings shall not be strictly enforced, but the Hearing Panel shall give lesser weight to hearsay testimony, if admitted into evidence. The Chair of the Hearing Panel, in consultation with the other members of the Hearing Panel, shall set such timelines and such other rules regarding the conduct of the Hearing as he or she deems appropriate and/or necessary.

Testimony at a hearing shall be taken under oath.

k. Recording the Hearing

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.

No person may secretly record a hearing or cause a hearing to be secretly recorded, in any form.

l. Burden of Proof

In the conduct of a hearing, the burden of proof shall be upon the complainant to prove his/her allegations by a preponderance of the evidence, except in the case of a disciplinary matter that is being disputed by a member, in which case the burden of proof shall be on ACA to prove the allegations by a preponderance of the evidence. For purposes of these Bylaws, "preponderance of the evidence" means superiority in weight of evidence that is more convincing (even if minimally) than the evidence presented by the other party.

m. Decision of the Panel

Decisions on the merits of the Dispute and the form of remedies, including the nature and extent of discipline, shall be determined by a majority vote of the Hearing Panel. The Hearing Panel shall report its decision on the merits in writing within thirty (30) business days of the conclusion of the

hearing; provided, however, that if necessary due to time constraints, the Hearing Panel may render its decision orally, or in writing without reasoning, to be followed by a written decision as soon as practicable. In addition, the Hearing Panel may extend the date for reporting its decision on the merits where necessary, and shall inform the parties of the extension. The decision on the merits shall be sent to the parties. The consequences or remedy requested if found to be violated will also be included in the notice.

n. Legal Fees

Every party has the right to be represented by an attorney or other representative of their own selection in any proceeding under this Policy. However, each party shall pay their own legal and/or representation fees in all proceedings, unless such fees are awarded by the Hearing Panel where the Hearing Panel determines that a party has committed abuse of process or filed a frivolous Dispute. Without limiting the ability of a member who is claiming that their opportunity to participate has been denied to avail themselves of the process set forth in Section 9 or 10 of the USOPC Bylaws or in the Sports Act, a decision made by the Hearing Panel shall be final and binding and may not be appealed pursuant to this Grievance Policy.

Section 11. Expedited Procedures

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 Grievance 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 and subsequent review by the ACA Board of Directors shall not be available. The expedited procedures shall be such procedures as are necessary, but fair to the parties involved in the determination of the hearing panel.

Section 12. Decision

A decision shall be determined by a majority of the hearing panel. The decision shall be included in a written order distributed to the parties. The order issued by the hearing panel will set forth the ruling body's understanding of the facts, its analysis of the issues presented and its ruling on each issue presented. Any order issued by the hearing panel shall be final subject to the appeal pursuant to Section 13 (Appeal to Board) and Section 14 (Arbitration) below.

Section 13. Appeal to Board

A party may appeal the decision of the hearing panel by making a request in writing to the ACA Board of Directors within fifteen (15) calendar days of the issuance of the decision. The ACA Board of Directors will within sixty (60) days of the request, review such decision and either affirm it or, if it is clearly erroneous, remand it to the hearing panel for additional appropriate action, by majority vote at a meeting of the ACA Board of Directors where a quorum is present. If the Board of Directors elects to remand a decision to a hearing panel, it will provide a written decision identifying any applicable errors to the hearing panel and the hearing panel will, if necessary, conduct additional hearings and issue a subsequent decision considering the Board's decision.

Section 14. Arbitration

Any party may appeal a decision of any 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. The arbitrator may give whatever weight or authority to the hearing panel’s decision as the arbitrator deems appropriate. A decision rendered by the arbitrator will be considered binding.

Section 15. Anti-Retaliation

The ACA has zero tolerance for retaliation against people who make good faith reports of potential ethical, policy, or legal violations, or who cooperate with investigations of those reports. That means no ACA staff, Board/Committee member, or volunteer may threaten, harass, discriminate against, or take any negative action (e.g., discharge, demotion, suspension, negative review) on that basis. All parties receiving a complaint are to follow the ACA’s anti-retaliation procedures.

Revisions:

Revisions to this policy shall be executed and be approved by the Board of Directors. All revisions must be consistent with the prevailing ACA Bylaws. The ACA Secretary shall maintain historical versions of this document. Revision History		
Rev	Description of Changes	Date
0	Original document – waiting USOC and ACA approval	7/30/2017
1	Changed “Athlete Member” to “Actively Engaged Athlete” per USOPC	7/18/19
2	Revised Section 13 to remove the reference to complaints “involving selection to participate in a competition” which makes this section apply to all types of complaints made to the Grievance Committee	2/1/2020
3	Revised Section 9 to add language regarding “Fair Notice and Opportunity for Hearing; revised Section 16 to add language regarding bind arbitration.	3/10/2020
4	Revisions to: §1 adding type of complaint; §9 explaining process when member of grievance committee has a perceived conflict; §10 clarifying language on timeline of proceeding. Addition of §16 Anti-Retaliation Removal of Filing Fee.	9/23/2021
5	Many changes to broaden process to all types of complaints and to add detail to the process sections.	8/5/2022

