

ACA Response and Resolution Policy and Process (updated December 20, 2022)

Section 1. Administration

The ACA Executive Director, the Athlete Safety and Compliance Manager (ASCM), and the Grievance Committee (GC) shall generally administer and oversee matters subject to this policy.

The ACA Executive Director and the ASCM will coordinate to respond to US Center for SafeSport requests within 72 hours regarding the eligibility status of a Participant and the existence of ACA-imposed temporary measures or safety plans.

The GC, a standing Board committee, manages any and all allegations of misconduct and policy violations. The GC shall establish a Hearing Panel on an ad hoc basis at the direction of the Committee Chair.

Section 2. Intake

a. Reporting Mechanism.

Reports are received through an online reporting form or through direct contact with the Executive Director: <https://www.americancanoe.org/general/custom.asp?page=ReportingMisconduct>

b. Determination of Jurisdiction.

Information and documentation gathered through the reporting mechanism shall be used by the Executive Director to guide assessment of jurisdiction. The US Center for SafeSport has the exclusive authority to investigate and resolve alleged SafeSport Code violations involving sexual misconduct. Any report received by the ACA of an allegation that falls within the Center's exclusive jurisdiction will be referred to the Center immediately and no later than within 24 hours of receipt.

The Center has discretionary jurisdiction to investigate and resolve allegations that a Participant engaged in one or more of the following:

1. Non-sexual Child Abuse;
2. Emotional and physical misconduct, including stalking, bullying behaviors, hazing, and harassment;
3. Criminal Charges or Dispositions not involving Child Abuse or Sexual Misconduct;
4. Minor Athlete Abuse Prevention Policy or other similar Proactive Policy violations;
5. Misconduct Related to Aiding and Abetting, Abuse of Process, or Retaliation, when it relates to the processes of the USOPC, an NGB, an LAO, or any other organization under the Center's jurisdiction.

When the allegations presented fall within the Center's discretionary jurisdiction, the ACA may investigate and resolve the matter, unless and until such time as the Center expressly exercises jurisdiction over the particular allegations.

The ACA will promptly inform an identified reporting party of its jurisdictional determination regarding their report to the Organization and will communicate if the matter is being referred to the Center, is being addressed by ACA, or is being referred to a local affiliated organization (LAO).

c. Mandatory Reporting.

This Section provides guidance on what to report, to whom to report, and how to report.

The reporter's vital job is simply to report the allegation to the appropriate entity(ies).

DO NOT evaluate the credibility of the allegation or investigate it.

1. Mandatory Reporter Designation

If an adult Participant learns of any allegation of Prohibited Conduct, they must report the allegation as follows:

2. Sexual Misconduct, Child Abuse, and Retaliation

➤ Report Sexual Misconduct, Child Abuse, and Retaliation to the U.S. Center for SafeSport.

- Online: <https://uscenterforsafesport.org/report-a-concern/>
- Phone: 1-833-587-7233
- If a Participant becomes aware of an allegation of Sexual Misconduct or Child Abuse, or Retaliation the Participant **MUST** report this to the Center for SafeSport **IMMEDIATELY**.

–AND–

➤ Report Child Abuse to Law Enforcement

- **Important:** If an adult Participant learns of information and reasonably suspects that a Minor has suffered an incident of Child Abuse (to include neglect, physical, emotional, and sexual abuse), they **MUST** report this to law enforcement (or in some states child protective services) **AND** the Center for SafeSport **IMMEDIATELY. Filing a report with the Center does not satisfy the reporting requirement to law enforcement.**
- Please visit <https://www.childwelfare.gov/topics/responding/reporting/how/> for more information on reporting to law enforcement/child protective services.

3. Reporting Emotional or Physical Misconduct, other Prohibited Conduct, or MAAPP Violations

➤ Promptly report it to the Center for SafeSport.

- While the Center has the exclusive jurisdiction for response and resolution of allegations of Sexual Misconduct, it may also assume discretionary jurisdiction over other forms of abuse. If it does not assume jurisdiction, it has a process to route the allegation to the ACA for response and resolution.

–OR–

➤ Report it to the ACA.

- <https://www.americancanoe.org/general/custom.asp?page=ReportingMisconduct>

Section 3. Preliminary Inquiry

Upon receiving a report of emotional or physical misconduct, bullying, harassment, hazing, or violation of the Minor Athlete Abuse Prevention Policies (MAAPP) that is not reportable to law enforcement under state or federal law, the Executive Director will forward information and documentation gathered through the reporting mechanism to the Chair of the Grievance Committee. The GC will identify and contact the Claimant(s), the investigation process will be explained, and Claimant questions or concerns will be addressed.

A Preliminary Interview will be conducted with the Claimant(s). Preliminary Interviews are brief conversations, generally with the Claimant(s) (though supplemented, if necessary, by critical witnesses or third-party reporters to affirm Claimant identity or contact information). The goal of a Preliminary Interview is to obtain a fundamental understanding of the allegations and surrounding circumstances. Importantly, the Preliminary Interview is not meant to elicit substantial detail regarding the allegations, should be conducted in a trauma-informed way, and should be intentionally brief so Claimant(s) do not feel they are repeating themselves when they eventually speak with an investigator.

Immediately available information and evidence (e.g., screenshots of text/social media messages, video footage, etc.) should be gathered.

Critical witnesses should be identified and, if necessary, contacted to gather preliminary information.

Section 4. Investigation

Factors to be considered in an investigation include the age of the alleged victim, the age of the alleged perpetrator, and the extent, nature, and scope of the allegations.

The confidentiality of the complaint, complainant, victim, and accused should be protected by the ACA until the outcome of the proceedings is finalized. Notice should be given about any sanction. The investigator should not discuss the ongoing investigation with anyone other than for the purposes of gathering information related to the investigation unless requested otherwise by law enforcement or child protective services. Likewise, participants in the hearing should be requested to keep all information confidential unless requested by law enforcement or child protective services.

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 10 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. 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 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. 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.

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.

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. For purposes of this process, "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.

o. 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 5. 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.

Sanctions applied should be appropriate and reasonable under the circumstances.

Sanctions that may be applied against a staff member, member (including athletes) or volunteer:

- i. Referral to law enforcement authorities if a crime is believed to have been committed
- ii. Dismissal in the event of extreme cases
- iii. Temporary suspension

- iv. Reassignment of duties
- v. Formal warning
- vi. Place under the supervision of another staff member

Sanctions that may be applied against a participant:

- vii. Revocation of membership or participation in competitions
- viii. Suspension of membership or participation in competitions
- ix. Verbal/written warning
- x. Provided additional education and guidance

The Executive Director shall file a copy of the investigation report and/or written order that specifies how allegations were responded to and their respective outcomes.

Section 6. No Interference

Interfering in, attempting to interfere in, or influencing the outcome of the ACA's investigations is prohibited.

The ACA shall not interfere in, attempt to interfere in, or attempt to influence the outcome of any Center investigation.

Section 7. Prohibition of Retaliation

Retaliation or attempt to do the same is prohibited.

Retaliation is any adverse action or threat to take any adverse action against any person related to allegations of Prohibited Conduct. Adverse actions include, but are not limited to: threatening, intimidating, harassing, coercing, or any other action or conduct with the potential effect of dissuading any reasonable person from reporting Prohibited Conduct or engaging in activity related to any reporting or investigative processes.

Retaliation is prohibited at any time, including before, during, or after an individual's reporting or engagement in the processes of the Center or other relevant organization under the Center's jurisdiction.

Retaliation is prohibited even where there is a finding that no violation occurred. Retaliation does not include good-faith actions lawfully pursued in response to a report of a Code violation.

Section 8. Temporary Measures

The ACA may implement temporary measures at any time if an assessment of known facts and evidence suggests that measures are necessary to mitigate risk, or to protect athletes or the sport community.

The Executive Director and/or the GC may implement Temporary Measures at any time. A Temporary Measure shall be effective immediately upon notice, unless stated otherwise. Temporary Measure(s) will remain in effect until the Executive Directory and/or the GC expressly removes the Temporary Measure(s).

When implementing a temporary measure, the Executive Director and/or the GC evaluates whether (i) the measure is reasonably appropriate based on the seriousness of the allegations and the facts and circumstances of the case; (ii) the measure is reasonably appropriate to maintain the safety or well-being of the Claimant, other Athletes, or the sport community; or (iii) the allegations against the Respondent are sufficiently serious that the Respondent's continued participation in the sport could be detrimental to the best interest of sport and those who participate in it.

Temporary measures may include, but are not limited to, altering training schedules, providing or requiring chaperones, implementing contact limitations, implementing measures prohibiting one-on-one interactions, and suspensions from participation in some or all aspects of sport activity. If measures require monitoring or chaperoning, the Respondent may be required to locate, arrange, and pay for some or all of those services as a condition of continued participation pending completion of the investigation.

The Executive Director and/or the GC may modify a Temporary Measure at any time.

Failure to comply with a Temporary Measure constitutes an independent violation.