

ARTICLE 15

REDRESS OF GRIEVANCES & CONDUCT OF PROCEEDINGS

- A. A grievance** may be any matter within the cognizance of USATF New Jersey as described in Article 14. Grievances shall be filed and administered in accordance with the following procedures.
- B. A disciplinary proceeding** conducted by the Association shall concern only matters that arise wholly within the Association's boundaries, and for which the disciplinary measures or relief sought would apply only within the Association's boundaries. All other disciplinary matters shall be referred to USATF pursuant to Article 14-B of the USATF Bylaws.
- C. Association Arbitration Panel:** The following shall apply to the appointment and conduct of the Association Arbitration Panel (AAP), which shall be responsible for hearing all Association grievance and disciplinary proceedings:
1. **Members:** The Association Arbitration Panel shall consist of three (3) members - a chair, an at-large member, and an athlete member. There shall also be a first alternate, second alternate, and additional alternates who may be appointed from time to time, within the Association's sole discretion, when any of the three members of the AAP are not available or do not have sufficient availability to ensure that grievance and/or disciplinary matters proceed on an appropriate schedule. Members of the AAP shall not be members of the Association Board or Executive Committee.
 2. **Appointments:** Appointments shall be made by the President with the approval of the Association Board. The appointments shall be duly reflected in the minutes of a properly convened Board meeting.
 3. **Terms:** Terms shall commence on January 1 of each even-numbered year.
 4. **Removal:** Members and alternates may be removed for good cause by majority vote of the Association's Board. Good cause may include, but is not limited to, the following:
 - a. **Dilatory practices:** An AAP member who causes or permits delays in the hearing process; and/or
 - b. **Failure to follow procedures:** An AAP member who disregards or fails to apply the hearing procedures or other provisions set forth in the Association Bylaws, Association Regulations, USATF Rules, USATF Bylaws, and/or USATF Regulations.

D. Grievances:

1. Grievance Complaints:

- a. A Grievance Complaint shall state that a party (i) has violated the Association's Bylaws, USATF's Bylaws or Operating Regulations, USATF policies, USATF code of conduct, or the Sports Act, or (ii) has violated the IAAF eligibility rules, or (iii) has engaged in conduct detrimental to the best interests of Athletics, the Association or USATF. A Grievance Complaint must further set forth the specific conduct, actions, nonaction and other events or circumstances that the grievant contends justify each of the foregoing statements included in the Grievance Complaint.
- b. Grievance Complaints shall (i) be filed with the Association office and the Secretary, (ii) be signed, sworn to, and notarized, and (iii) allege with particularity the nature of the dispute, each act or omission (or series of acts or omissions) giving rise to the dispute, and each specific USATF Rule, IAAF Rule, Sports Act provision, code of conduct section, or USATF policy allegedly violated. The complaint shall separately state factual allegations in concise, numbered paragraphs. An improperly filed complaint shall be returned to the sender with instructions explaining the deficiency. A party may file an amended complaint within thirty (30) days after the original complaint is returned. The amended complaint shall be deemed filed on the filing date of the original complaint. If a party does not timely file an amended complaint, the complaint shall be deemed abandoned. The Association Office shall forward a copy of each Grievance Complaint to the President.
- c. A Grievance Complaint **MUST CONTAIN** and seek relief for all matters with respect to which the Grievant contends or has reason to contend form the basis for a grievance as to the party against whom the grievance has been filed. Filing of a Grievance Complaint shall extinguish any and all right the grievant has to bring any subsequent grievance proceedings with respect to any matters not raised in the Grievance Complaint, to the extent such matters were known or should have been known to the grievant as of the date the Grievance Complaint was filed. Accordingly, once the Grievance Complaint is accepted by the Association, the scope of the grievance may not be expanded beyond the allegations set forth in the Grievance Complaint absent an order from the AAP.
- d. The Association, in its sole discretion, may consolidate separate grievances involving the same parties, or grievances that arise out of the same transaction or occurrence, provided that doing so will not materially delay the resolution of the first-filed grievance.

- 2. Parties:** Grievance Complaints may be filed only by and against individuals or

entities that were, at the time that the conduct complained of occurred, and at the time the Complaint is filed, members, directors, or officers of USATF and this Association or otherwise subject to the Association's jurisdiction. (To the extent that a grievance does not fall within the jurisdiction of the Association, then the matter needs to be referred to USATF pursuant to USATF Operating Regulation 21.) A non-member, former director, or former officer of the Association shall be subject to the Association's jurisdiction to defend against a Grievance Complaint for an incident that occurred while he or she was a member, a director, or officer of the Association or otherwise subject to the Association's jurisdiction. A Grievance Complaint may only be filed by a person or entity affected by the issues raised in the complaint.

3. **Time limit:** Grievance Complaints must be filed within one (1) year from the time the complaining party knew or should have known of the act giving rise to the Complaint.
4. **Grievance filing fees:** A filing fee of Two Hundred Fifty U.S. Dollars (US \$250) must accompany the Grievance Complaint. The filing fee must be in the form of a certified check or money order made payable to the Association. The Association may, in its sole discretion, suspend action on any Grievance Complaint that is not accompanied by payment, or is submitted with a form of payment that does not comply with the requirements of this paragraph, pending receipt of proper payment.
5. **Informal resolution of grievances:** Upon receipt of a Grievance Complaint, the President or his/her designee shall attempt to resolve the grievance through informal means, and, in the case of grievances pertaining to a specific athlete or a specific sport discipline, the President or his/her designee shall also confer with the Association chair of the sport committee for the discipline involved. As part of the informal resolution process, all respondents named in the Grievance Complaint shall be served with a copy of the complaint.
6. **Formal resolution of grievances:** If the informal resolution of the Grievance Complaint is unsatisfactory to any party, such party may request a formal grievance proceeding within the Association.
7. **Hearing panel:** When a party has indicated that the matter cannot be resolved informally and requests a formal hearing, the President or his/her designee shall coordinate the selection of a three-person arbitration panel as detailed in Paragraph C of this regulation. The arbitration panel should include at least one Active Athlete. One panel member will be selected as Chairperson with responsibilities to control and conduct the process. The arbitrators shall not be members of the Association Board or Executive Committee.
8. **Notice of proceedings:** Within thirty (30) days of a party's request for a formal

grievance proceeding, the Association Secretary shall send all interested parties and the hearing panel the following documents and information:

- a. Documents: Written notice of proceedings, setting forth the due date for filing an answer to the complaint;
 - b. AAP Members and Contact: The names of the hearing panel members and the address and telephone number of the panel's chairperson;
 - c. Association Bylaws: A copy of the text of this Regulation of the USATF New Jersey Bylaws, USATF Regulation 21, and any other relevant USATF Rule or Regulation; and
 - d. Other relevant documents: A copy of any specifically identified document(s) related to the dispute.
- 9. Challenge to arbitrator(s):** Within fourteen (14) days following the receipt of the Notice of Proceedings any party to the hearing may challenge the seating of any AAP panel member on the ground that the panel member has an established or apparent conflict of interest. The Association Secretary shall provide notice of any such challenge to all parties, and may extend the time to answer if a panel member is challenged. Failure to bring a timely challenge against the seating of an AAP arbitrator constitutes a waiver of such challenge. The President or his/her designee shall determine, preferably through consultation with an attorney, whether a challenge to an arbitrator based on an actual or apparent conflict presents grounds to remove the arbitrator from the Panel. If it is determined that the challenge is valid, the arbitrator shall be replaced. All deadlines with respect to the conduct of the matter, with the exception of the deadline to file an answer, shall be automatically stayed pending resolution of any arbitrator challenge and appointment of an acceptable replacement (in the event an arbitrator is removed).
- 10. Answer:** The person(s) or entity(ies) named in a Grievance Complaint ("respondent(s)") must submit a written answer to the Association Secretary within thirty (30) days after receipt of the letter notifying respondent(s) that a formal hearing has been requested ("Notice of Proceeding"). A copy of the Answer shall be forwarded by the Secretary to the grievant (the party filing the Complaint) and the AAP panel. Absent an extension of time to answer, the failure of respondent(s) to answer within thirty (30) days after the receipt of the Notice of Proceedings will be deemed a waiver by respondent of the opportunity to have a hearing or have an appeal of any adverse decision. Upon such failure, and after confirmation of the receipt of the Notice of Proceeding by all parties, the hearing panel may proceed in the absence of the respondent(s) and may decide the matter with or without a hearing and

with or without taking testimony and evidence, as it deems appropriate. If a party raises a hearing panel challenge under Paragraph 9 above, the panel chair may extend the time to answer.

- 11. Communications with the AAP:** During the pendency of a grievance proceeding, the parties shall copy all other parties, all members of the AAP, and the Association Secretary on all communications with one or more members of the AAP. *Ex parte* communications with any AAP member regarding any matter pertinent to the proceeding shall be prohibited and, where egregious or prejudicial to an opposing party, shall be subject to sanctions as determined by the AAP.

E. Disciplinary matters:

1. This Association shall have the authority to discipline any member, delegate, athlete, coach, manager, official, trainer, member of any committee, and any other person or entity participating in Athletics who, by neglect or by conduct, (i) acts in a manner detrimental to the purposes of USATF, this Association, or Athletics, or (ii) has violated any of the Bylaws, Operating Regulations, code of conduct or Rules of Competition of USATF, or of the Association, or (iii) has violated the rules of eligibility, to the extent permitted under Article 14 of the USATF Bylaws and USATF Regulation 21-D.
2. **THE DISCIPLINARY AND REINSTATEMENT PROCEDURES OF USATF AND ITS MEMBER ASSOCIATIONS ARE SET FORTH IN USATF OPERATING REGULATIONS 21 AND 22. ASSOCIATION DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH REGULATION 21.**
3. **Time limit:** Disciplinary proceedings must be requested within one (1) year from the time the complaining party knew or should have known of the issue giving rise to the request for a disciplinary hearing.

F. Rights of the persons or entities: In all grievance and disciplinary matters, all parties shall be provided with fair notice and an opportunity for a hearing prior to the adjudication or imposition of any penalty by the Association or AAP.

1. **Representation:** May be represented in any disciplinary, grievance, or Association proceeding by a person(s) who may (but need not) be an attorney;
2. **Right to appeal:** May appeal any adverse decision in accordance with this Regulation;
3. **Attendance at hearing:** May be present at any hearing; and
4. **Presenting and challenging evidence:** Shall have the right to present evidence and witness testimony and to cross-examine witnesses testifying against him,

her or it.

G. Hearing Procedures. Formal grievance and disciplinary proceedings shall be conducted by the Association hearing panel in a manner consistent with the rules and procedures set forth in USATF Regulation 21-M, N, O, Q, R and T. However, in cases where a party's right to present documentary evidence, present witnesses, or cross-examine witnesses may be impaired or limited in any regard by conducting a telephonic hearing, good cause for an in-person hearing shall be deemed to exist, and the Association President (or his/her designee), upon receipt of a timely request from a party or on his/her own initiative, shall inform the AAP that an in-person hearing will be necessary. Absent circumstances not within the control of the Association, Grievance or disciplinary hearings are to be held within ninety-five (95) days of the filing of the proceeding.

H. AAP decisions and opinions: The following shall pertain to AAP final decisions and opinions:

- 1. Scope of decision:** All AAP panel decisions shall be consistent with USATF, USATF New Jersey, and IAAF Rules and Regulations, and the Sports Act. If the implementation of any AAP panel decision and opinion would have a significant budgetary impact on USATF New Jersey, the Budget Committee chair and/or the USATF New Jersey Treasurer shall review it and report their findings to the Board within thirty (30) days of the issuance of the opinion. In such instances, the decision and opinion shall not become final and binding unless and until approved by the Board. The Board shall determine to what extent any AAP decision and opinion having a significant budgetary impact on USATF New Jersey may be implemented, in light of fiscal considerations, and may remand the matter back to the AAP panel for modification based upon budgetary directives from the Board;
- 2. Form of decision and opinion:** The AAP decision shall conform with the requirements of USATF Regulation 21-O.
- 3. Timeframe:** An AAP panel shall issue a decision with respect to the disciplinary, formal grievance, or other proceedings within fifteen (15) days after the conclusion of the hearing. The panel shall render a written opinion no later than thirty (30) days after the conclusion of the hearing, or after the submission of any post hearing documentation to the panel.
- 4. Effect of decision:** All AAP panel decisions shall be effective upon the date rendered, unless otherwise stated in the decision.

Q. Grievances Against Officers of the Association: In the event a grievance is brought against any officer of the Association, the officer subject to the grievance shall be prohibited from taking any part in the administration

process concerning the grievance.

R. Appeals: USATF Regulation 21-R shall govern all requirements, deadlines and procedures for appealing an AAP decision.