

USATF New England – Operating Regulation 1
FORMAL GRIEVANCES AND DISCIPLINARY PROCEEDINGS

- A. Jurisdiction:** This Association shall have jurisdiction over all disciplinary and formal grievance proceedings relating to matters that arise within the boundaries of the Association, except sexual misconduct allegations and doping violations which shall be under the jurisdiction of USATF. All penalties imposed by the Association shall be effective only within the jurisdiction of the Association.
- B. Association Arbitration Panel:** The following shall apply to the appointment and conduct of the Association Arbitration Panel (AAP):
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 when any of the three members of the AAP are not available. 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:** A 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.
- C. Grievances:** A grievance may involve any matter, other than sexual misconduct and doping offenses, within the cognizance of USATF that occurs in the jurisdiction of this Association:
1. **Grievance Complaints:** A Grievance Complaint shall state the following:
 - a. **Detrimental conduct:** Conduct detrimental to the best interests of Athletics, USATF, USATF **New England** has taken place; or
 - b. **USATF violations:** A violation of any of USATF's Bylaws or Operating Regulations and/or of a violation of any of USATF **New England** Bylaws or Operating Regulations has occurred.
 2. **Parties:** Grievance Complaints may be filed only by and against individuals or entities which were, at the time that the conduct complained of occurred, and at the time the Complaint is filed, members, directors, or officers of USATF or otherwise subject to the jurisdiction of USATF **New England**. A non-member, former director, or former officer of USATF **New England** shall be subject to the jurisdiction of USATF **New England** for the purpose of defending against a Grievance Complaint for an incident that occurred while he or she was a member, a director, or officer of USATF **New England** or otherwise subject to the jurisdiction of USATF **New England**. A Grievance Complaint may only be filed by a person or entity affected by the issues raised in the complaint; and

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.
- D. Disciplinary matters:** USATF New England shall have the authority to discipline any member who, by neglect or by conduct, acts in a manner subject to discipline pursuant to Regulation 1-D-1 below.
1. **Activities subject to discipline:** USATF **New England** may discipline any member who, by neglect or by conduct:
 - a. **Detrimental conduct:** Acts in a manner detrimental to the purposes of USATF, USATF **New England**, or Athletics;
 - b. **USATF, IAAF, and Sports Act violations:** Violates any of the Bylaws, Operating Regulations, or Competition Rules of USATF or the IAAF, or violates the Sports Act;
 - c. **Eligibility violations:** Violates the rules of eligibility for Athletics;
 2. **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.
- E. Rights of the persons or entities:** In all matters subject to this Regulation, 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. All parties::
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.
- F. Initiation of proceedings:** Formal grievances shall be initiated as follows:
1. **Grievance complaint filing procedures:**
 - a. **Filing location:** Complaints shall be filed with the Association President and Secretary. The Secretary shall forward a copy of the Complaint to the each party charged in the Complaint;
 - b. **Language:** All documents filed and exchanged with respect to this Regulation shall be in English; provided, however, that an original document that is in a foreign language must be submitted along with an English translation. The party submitting the document shall bear the cost of obtaining its translation which shall be conducted by a reputable translator or translation service. In the event of a challenge to the accuracy of a translated document, the panel chairperson may direct USATF to order a translation of the document(s) in question and may allocate the cost of the translation to any party or all parties, as the panel deems appropriate;
 - c. **Basis for the Complaint:** The Complaint shall allege clearly the nature of the dispute and, where appropriate, state the specific violation of the Bylaws, Operating Procedures, Competition Rules, or Policies of USATF, USATF **New England**, or the IAAF;

- d. **Facts of allegation:** Factual allegations shall be separately stated in concise language with one allegation set forth in each numbered paragraph of the Complaint;
 - e. **Signature:** The Complaint shall be signed by the person filing the Complaint,
 - f. **Filing fees:** A filing fee of One Hundred U.S. Dollars (US\$100) must accompany an organization’s complaint and a filing fee of Seventy-five U.S. Dollars (US\$75) must be paid by individuals filing a Complaint. The filing fee must be in the form of a certified check or money order made payable to the Association;
2. **Failure to comply with Complaint procedures:** Complaints that fail to comply with the procedures outlined in this Regulation shall be returned to the filer with instructions explaining the deficiency. A returned Complaint may be re-filed within thirty (30) days of the initial filing. After thirty (30) days, the Complaint will be deemed abandoned;
 3. **Informal resolution of grievances:** Upon receipt of a Grievance Complaint, the President or his/her designee shall make every effort to resolve the dispute through informal means. In disputes pertaining to a specific sport discipline, the President or his/her shall also confer with the chairperson of the sport committee for the discipline involved. All discussions related to the informal resolution of a complaint shall be confidential;
 4. **Formal resolution:** If the informal resolution of the complaint is unsatisfactory to any party, or if a party declines to pursue informal resolution, the party may request that the complaint be resolved by a formal hearing before an AAP panel;
 5. **Hearing panel:** When one party has indicated that the matter cannot be resolved informally, the President or his/her designee shall coordinate the selection of a three-person arbitration panel **as detailed in Paragraph B 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.
- G. Notice of proceedings:** Within thirty (30) days of the commencement of a formal grievance all interested parties and the hearing panel shall be sent the following by the Association Secretary:
1. **Documents:** A copy of the complaint or other documents giving rise to the proceeding, with any attachments;
 2. **AAP Members and Contact:** The names of the hearing panel members and the address and telephone number of the panel’s chairperson;
 3. **Association Bylaws:** A copy of the text of this Regulation of the USATF **New England** Bylaws and any other relevant USATF Rule or Regulation; and
 4. **Other relevant documents:** A copy of any specifically identified document(s) related to the dispute.
- H. Answer:** The person(s) or entity(ies) named in a Complaint (respondent(s)) must submit a written answer to the Association Secretary within **thirty (30) days** after receipt of the letter notifying respondents that a proceeding has been filed (“Notice of Proceeding”). A copy of the Answer shall be forwarded by the Secretary to the complainant (the party filing the Complaint) and the AAP panel. 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 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 Regulation 1-I, the panel chair may extend the time to answer.

- I. **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 may not be impartial. The panel chairperson 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.
- J. **Hearing procedures:** The following procedures apply to formal grievance, and other hearings:
 1. **Pre-hearing conference call:** Within five (5) business days of the expiration of the arbitrator challenge the AAP panel chairperson shall conduct a pre-hearing conference by telephone conference call with all parties to discuss scheduling and procedural matters.
 2. **Date of Hearing:** Best efforts should be used to set a convenient time and date for all participants. The AAP hearing panel shall schedule the hearing to take place within thirty (30) days of the initial pre-hearing conference. The hearing date may be delayed beyond the thirty (30) day period only upon a showing to the AAP panel that a substantial injustice would otherwise occur.
 3. **Location for hearing:** Hearings shall be held in-person, unless good cause is shown to the AAP chairperson that holding the hearing by telephone conference call is in the best interest of the sport of Athletics.
 - a. **Reason for request for telephone conference call hearing:** If a party requests that the hearing be held by telephone conference call, such request shall be accompanied by a statement identifying the material reasons which the hearing panel should resolve in this venue.
 - b. **Deadline for request:** The telephone conference call hearing request must be submitted to the AAP chairperson within ten (10) business days of the receipt of the Notice of Proceedings. Failure to submit a telephone conference call hearing request during the above-described timeframe constitutes a waiver of the right to request a telephone conference call hearing.
 4. **Delays:** If an interested party causes an unnecessary delay, the AAP panel may dismiss the proceeding or, at its discretion, rule against the party causing the delay. If the delay is the result of AAP panel inaction, the President or his/her designee may dismiss the panel and replace it with a new panel. If a party to the proceeding fails to appear at the hearing, then the AAP panel may make a ruling based on available information and the testimony of those present at the hearing;
 5. **Evidentiary rules:** The rules of evidence generally accepted in administrative proceedings shall be applicable to the hearing; the formal rules of evidence shall not apply;
 6. **Burden of proof:** The burden of proof is upon the complainant to prove by a preponderance of the evidence that conduct described in Regulation 1-C-1 or 1-D-1 above has occurred;
 7. **Hearing record:** An official transcript or recording is highly recommended for hearings conducted by an Association. Any party to the proceedings may retain a court reporter or other competent individual to provide a transcript or recording of the hearing at that party's own expense. If made, such transcripts or recordings shall

- become the official record of the proceedings and a copy shall be provided to all parties at their own expense; and
8. **Closed hearing:** Hearings shall be closed to the public. Witnesses shall attend hearings only as necessary to provide testimony.

- K. **AAP decisions and opinions:** The following shall pertain to AAP final decisions and opinions rendered in hearings and appellate proceedings:
1. **Scope of decision:** All AAP panel decisions shall be consistent with USATF, USATF **New England**, 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 England**, the Budget Committee chair and/or the USATF **New England** 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 England** 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 state in one or two brief sentences which party the AAP arbitrators have ruled in favor of. The opinion of the AAP panel shall set forth the following:
 - a. **Issue:** The question(s) the AAP panel was asked to decide;
 - b. **Arguments:** A brief summary of the arguments made by each party;
 - c. **Findings of fact:** The findings of fact upon which the panel based its decision;
 - d. **Citations:** A citation to the applicable IAAF, USATF, USATF **New England**, Sports Act, or other applicable rule, bylaw or minutes, reports, guidelines, or other documents upon which the AAP panel decision is based, if any; and
 - e. **Stay provision:** Whether the effect of the decision shall be stayed in the event of an appeal, if appropriate;
 3. **Time frame:** 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.
- L. **Appeals:** The decision of the arbitrators may be appealed pursuant to USATF Regulation 11-P.