



Revision 15 15 September 2009 (proposed)

**BY LAWS OF THE
PACIFIC ASSOCIATION OF USA TRACK & FIELD**

Items in red are proposed changes submitted May 15, 2009
Major additions in section 16 and 17 as result of requirement of USATF
Proposal introduced for first reading at May Board of Athletics Meeting with final approval set for September meeting. Feedback should be sent to George Kleeman at george_kleeman@comcast.net. Updates since May posting- 8/26/09 see 15.c.2 (pg. 14) and 16.a.2 in green (pg 17).

ARTICLES with Changes

- 15. Administrative Committees
- 16. Association Arbitration and Special Hearing Panels
- 17. Formal Grievance and Disciplinary Procedures
- 19. Removal of Officers from Office

Renumber remaining Articles 18 and 20 plus.

ARTICLE 15. ADMINISTRATIVE COMMITTEES

(c) AWARDS COMMITTEE

It shall:

- (1) Develop criteria for awarding annually to deserving individuals and/or organizations a token of permanent recognition of their outstanding service to, or prowess in, the sport of Athletics.
- (2) Develop and maintain criteria for awarding membership in the Pacific Association Hall of Fame.
- (3) Select the recipients and arrange for the presentation of such awards as may be authorized by the Board of Athletics.
- (4) Maintain a permanent record of all awards made on behalf of this Association.

ARTICLE 16. ASSOCIATION ARBITRATION PANEL and SPECIAL HEARING PANEL

There are two types of hearing panels for use in the formal grievance and disciplinary proceedings covered in Article 17. One is constituted for a period of two years with set membership acting as a pool of arbitrators (Association Arbitration Panel) and one is set up for an individual hearing (Special Hearing Panel). The operating procedures for both are the same with the only difference being their make-up and term of office.

(a) Appointment of Hearing Panel: The President or his/her designee shall appoint a three (3) person Hearing Panel at the time that it is determined that there will be a formal hearing (see Article 17 (f) (4)). The President in consultation with the Executive Board shall determine which is the best type of Hearing panel to use for the particular hearing. The two options are:

(1) a **Special Hearing Panel** drawn from the association as a whole at that time including the Board of Athletics to conduct a hearing and adjudicate the issue raised or

(2) assign it to the **Association Arbitration Panel** for hearing and adjudication of the issue depending on the nature of the complaint. The President shall establish a completion date for the submittal of the final report on the grievance to the Board of Athletics in line with the timing outlined in Article 17 (f to k).

If an officer of USATF Pacific is name in a grievance, then said officer shall be removed from the grievance administrative process.

Any challenge to the make-up of the hearing panel for cause or conflict of interest by any of the persons involved must be made using the procedure in Article 17 (h).

(b) Make-up of Panel:

(1) General for either panel: There will be three members. At least one member shall be an active athlete, whenever possible. One member will be selected as Chairperson with the responsibilities to control and conduct the process. The chair will act as panel secretary unless that responsibility is delegated to one of the other members. One member will be an at-large member. There will be at least one alternative, and preferably two named for each panel.

(2) Members of the Association Arbitration Panel (AAP) shall not be members of either the Board of Athletics or the Executive committee. There shall also be a first, second and additional alternates who may be appointed from time to time when any of the three members of the AAP are not available. Members and alternates are named for a two year period starting on January 1 of each even-numbered year. The President shall appoint members to the panel with the approval of the Association Board. They can be renamed for more than one term.

(3) Members of a Special Hearing Panel shall be selected by a random draw of those eligible to be panel members. Representatives of the committee(s) in which the grievance has occurred or people otherwise involved in the grievance will be excluded from the pool of eligible panel members; i.e., an official would be not be eligible for a panel if an official is part or party to the grievance. ~~Board of Athletics~~ Members who have actually served on one panel will be exempt from further service for two years following the issuance of the hearing report unless they volunteer for another panel. Eligible members for a Special Hearing Panel can include members of the Board of Athletics as long as they are not otherwise excluded because of a conflict of interest.

(c) Reasons for removal from either panel: Members and alternates may be removed for good cause by majority vote of the Board of Athletics. Good cause may include, but not limited to the following:

(1) Dilatory practices: A member who causes or permits delays in the hearing process; and/or

(2) Failure to follow procedures: A member who disregards or fails to apply the hearing procedures or other provisions set forth in the Association Bylaws, Association Regulations or Operating Procedures (including committee procedures), USATF Rules, USATF Bylaws and/or USATF Regulations.

(3) Challenges to members of the panel from parties involved in the hearing are covered in Article 17(i). Removal from a panel as a result of such a challenge only removes them from that particular hearing panel.

ARTICLE 17. FORMAL GRIEVANCE AND DISCIPLINARY PROCEEDURES

(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 allegation and doping violations which shall be under the jurisdiction of USATF. The Pacific Association shall have the authority to discipline any member who, by neglect or by conduct, acts in a manner subject to discipline. All penalties imposed by an Association shall be effective only within the jurisdiction of that Association.

(b) Hearing Panels: The choice of type, appointment of and membership make-up for hearing panels is cover in Article 16.

(c b) Grievances : Grievance: A grievance may be any matter, other than sexual misconduct and doping offenses, within the cognizance of USATF that occurs in the jurisdiction of the Pacific Association of USATF (hereafter the Pacific Association) as described in this article.

(1) Complaints: Only the following activities are grievable **complaints**:

(i) Detrimental Conduct: Conduct that is detrimental to the best interest of the sport of Athletics, USATF, the Pacific Association, or

(ii) USATF violations: A violation of any

(a.) USATF's by-laws or Operating Regulations, and/or

(b.) Pacific Association **Bylaw or Operating regulation** and/or

(c.) Pacific Association Sports Committee operating regulation **and/or**

(d.) An activity which would constitute removal for good cause (see examples in Article 19 -Removal of Officer from Office.

(a 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 that time that the complaint was filed, members, directors, or officers of USATF or otherwise subject to the jurisdiction of the Pacific Association of USATF. A Grievance Complaint may only be filed by a person or entity affected by the issues raised in the complaint. A non-member, former director, or former officer of the Pacific Association USATF shall be subject to the jurisdiction of the Pacific Association for the purpose of defending against a Grievance Complaint for an incident that occurred while he or she was a member, a director of officer of the Pacific Association, or otherwise subject to the jurisdiction of the Pacific Association.

If the complaint is **under a committee's jurisdiction** and **the committee** has a grievance procedure, resolution of the grievance should be attempted under that procedure. If the grievance is against a committee **officer** then the grievance should be sent to Association President or Executive Director ~~committee's executive board~~ who will act in place of the chair for resolution. ~~The grievance shall be signed under oath, notarized and shall state with particularity the nature of the grievance, the appropriate rule, regulation, procedure or bylaw involved, the individual or entity against which the~~

action is directed, and the nature of the relief sought. The grievant will send a copy of the grievance to the member or members accused of the act as well as the appropriate committee chair(s) along with copy and a \$50 fee to the Pacific Association office, which will be refunded if the grievance is upheld. If the committee does not have specific grievance procedures then the procedure in this article will be used with the appropriate substitution of the word "Chair" for the word "President" and the word "Committee" for the words "Board of Athletics".

(3) Time Limit: Except as provided in USATF Regulation 11-A-3 for grievances concerning sexual misconduct, grievances must be filed within ~~two (2)~~ **one (1)** years from the time the complaining party knew ~~of~~ or should have known of the act giving rise to the Complaint

(d) Disciplinary matters: The Pacific Association of USATF shall have the authority to discipline any member who, by neglect of conduct, acts in a manner subject to discipline pursuant to this Article.

(1) Activities subject to discipline: The Pacific Association of USATF may discipline any member who, by neglect or by conduct:

(a) Detrimental conduct: Acts in a manner detrimental to the purposed of USATF, the Pacific Association of USATF or Athletics;

(b) USATF, IAAF and Sports Act violations: Violates any of the Bylaws, Operating Regulations or Competition Rules of USATF or 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 Persons or Entities: In all matter subject to this grievance procedures, 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 Hearing Panel (see Article 16). All parties may have:

(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 procedure.

(3) Attend the hearing: May be present at any hearing; and

(4) Present and challenge evidence: Shall have the right to present evidence and witness testimony and to cross-examining witnesses testifying against him, her or it.

(5) Right to challenge an appeal panel member for cause, i.e. for prejudice or conflict of interest

(f e) Initiation of Proceedings:

(1) Grievance Complaint Filing Procedure:

(a) Filing Location: Should be sent to the President, Secretary and the Executive Director at the Association office. The office shall forward a copy of the Complaint to each of the parties charged in the Complaint.

(b) Language: All documents filed and exchanged with respect to the complaint 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 part 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 translation of a translated document,

the eventual panel chairperson may direct USATF to order a translation of the document(s) in question and may allocated 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 appropriated, state the specific violation of the Bylaws, Operating Procedures, Competition Rules, or Polices of USATF or the Association, or of 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 including the individual or entity against which that action is directed plus the nature of any relief sought.

(e) Contact Information: The complaint will also include their full name, address for contact, phone number and email address.

(f) Signature, contact information and Notarization: The Complaint shall be signed as being complete and truthful under oath by the person filing the Complaint and shall be notarized. (6) Filing Fees: A filing fee of One Hundred U.S. Dollars (\$100) 50-fee must accompany an organization's Complaint and a filing fee of Seventy-Five U.S. Dollars (\$75) must accompany an individual's Complaint when the complaint is sent to the Pacific Association office. The filing fee must be in the form of a certified check or money order made payable to the Pacific Association USATF. It will be refunded less the cost incurred due to the filing, if the grievance is upheld.

(2) Failure to comply with Complaint Procedure: Upon receipt of a grievance, the Executive Director and/or the President shall determine if it is a valid grievance or disciplinary matter per (c & d-b) above. Complaints that fail to comply with the procedures outlined in this article shall be returned to the filer with the instructions explaining the deficiency. A returned Complaint may be re-filed without an additional filing fee within thirty (30) days of the initial filing. After thirty (30) days, the Complaint will be deemed abandoned. Any costs associated with the complaint will be deducted from the filing fee and the remainder, if any, will be refunded. . **NO GRIEVANCE WILL BE ACTED ON UNLESS AND UNTIL ALL OF THE ABOVE STEPS FOR INITIATION OF PROCEEDINGS in (f)(1) HAVE BEEN FOLLOWED.**

(3) Informal Resolution: If it is, then the President or his/her designee with the help of the Executive Director, if appropriate, will try to mediate the dispute 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 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 per Article 17(e)(1) above. All discussions related to the informal resolution of the complaint shall be confidential.

(4) Formal Resolution: If informal resolution is not possible satisfactory to any party within a month of the submittal the President or if a party declines to pursue informal resolution, that party may request that a formal hearing proceed. At that time the President or his/her designee will chose what type of hearing panel is appropriate for that situations. See Article 16 for options and naming of the hearing panel.

(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 registered mail by the Pacific Association Office or Secretary if they have not previously received these documents:

(1) Documents: A copy of the complaint or other documents giving rise to the proceeding, with any attachments;

(2) Members and Contact: The names of the hearing panel members and the address, email address and telephone number of the panel's chairperson. The panel chair should also be given the name, address, email address and telephone numbers of all those involved with the complaint;

(3) Association Bylaws and other applicable Operating Procedures or Regulations: A copy of this section of the bylaws for the Pacific Association and any other relevant USATF or Pacific Association Rule or Regulation.

(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 person (Pacific Association office or Secretary) who gave them notice ((f) above) within thirty (30) days after receipt of the notice that a proceeding has been filed. The answer must be in writing but can be sent by mail or by their personal account e-mail. A copy of all answers shall be forwarded by the receiving party to the complainant (the party filing the Complaint) and the appropriate hearing panel members. The failure of the 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 to answer, and after the 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 challenge to a hearing panel member under Article 17 (i) below 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 (i.e. the first 14 days of the answer period) any party to the hearing may challenge the seating of any panel member on the grounds 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 make-up of the hearing panel during this time, constitutes a waiver of such challenge.

(j) Hearing Procedure: 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 panel chairperson will conduct a pre-hearing conference by telephone conference call with all parties to discuss scheduling and procedural matters. Such conference call will be documented as part of the hearing record (see (7.) below).

(2) Date of Hearing: Best efforts should be used to set a convenient time and date for all participants. The 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 panel that a substantial injustice would otherwise occur.

(3) Location of Hearing: Hearings shall be held in-person, unless good cause is shown to the hearing panel chairperson that holding the hearing by telephone conference call is in the best interests 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 accomplished 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 hearing panel 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 hearing panel may dismiss the proceeding or, at its discretion, rule against the party causing the delay. If the delay is the result of the hearing 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 hearing 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 proceeding 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 evidence that the conduct described in Article 17(c) and (d) above has occurred.

(7) Hearing record: An official transcript and/or recording of the hearing must be sent to the Pacific Association office within fifteen (15) days of the completion of the hearing. Any party to the proceeding 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 transcript(s) or recording shall become the official record of the proceeding and a copy shall be provided to all parties at their own expense, and

(8) Closed hearing: Hearing shall be close to the public except for a protocol officer may be appointed by the President or his/her designee who will serve to make sure all the elements of the procedure are duly followed. Witnesses shall attend the hearings only as necessary to provide testimony. They may not be present before or after they have given their testimony.

(k) Hearing Panel's decisions and opinions: The following shall pertaining to the hearing panel's final decisions and opinions rendered in the hearings and appellate proceedings:

(1) Scope of decision: All hearing panel decisions shall be consistent with USATF, Pacific Association of USATF, and IAAF Rules and Regulations and the Sports Act. If the implementation of any of the hearing panel decisions and opinions would have a significant budgetary impact on the Pacific Association of USATF, the Budget Committee chair, the Executive Director and the Treasurer shall review it and report their finding to the Board of Athletics within thirty (30) days of the issuance of the opinion. This may be done by electronic means. In such instances, the decision and opinion shall not be final and binding unless and until approved by the Board of Athletics. The Board shall determine to what extent any hearing panel decision and opinions having a significant budgetary impact the Association may be implemented, in light of the fiscal considerations, and may remand the matter to the hearing panel for modification base upon budgetary directive from the Board;

(2) Form of decision and opinions: The hearing panel shall state in one or two brief sentences which party the hearing panel arbitrators have ruled in favor of for each item individually involved in the hearing. The opinion of the hearing panel shall be written and shall set forth the following:

(a) Issue: The question(s) the hearing 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, Pacific Association, Sports Act or other applicable rule, bylaw or minutes, reports, guidelines, or other documents upon which the panel's decision is base, if any, and

(e) Stay provision: Whether the effect of the decision shall be stayed in the event of an appeal, if appropriate.

(3) Interim and Final Reports to the Boards:

(a) Interim Report: The Hearing Panel shall submit a written status statement to the President at least ~~the week before any Board of Athletics two months before the~~ scheduled Board of Athletics meeting ~~while the complaint is under reviews~~ so that the President may keep the Board of Directors and the Board of Athletics apprised of the current disposition of the grievance ~~or disciplinary hearings~~.

(b) Final Report: The Board of Directors shall receive a written copy of the final panel report by their next meeting. The Board of Athletics shall receive an oral summary of all decisions made by the Hearing Panel at its next meeting following the issuance of the decision. Any Board of Athletics member can request a copy of the final report from the office at their cost.

(4) Time Frame: A hearing panel shall issue a decision with respect to the disciplinary, formal grievance or other proceedings to all parties concerned within fifteen (15) days after the conclusion of

the hearing. This can be done by phone, email or in writing. The panel shall render the formal written opinion to the office and President no later than thirty(30) days after the conclusion of the hearing, or after the submission of any post hearing documentation to the panel per section k(2) above.

(5) Effect of decision: All hearing panel decisions shall be effective upon the date rendered, unless otherwise stated in the decisions.

(6) Finality of decision: The decision of the Hearing Panel is final and not subject to review except in the case of an appeal (see Article 17(l) below or documented bias against the losing party on the part of any member of the Hearing Panel or in the case of the suspension or expulsion of a member per Article 17 (k)(7) below. In the event that the losing party substantiates any claim of bias, the matter shall be submitted first for appeal to the Pacific Association Board of Directors for review.

(7) Suspending or expelling of a member: Where the Hearing Panel determines that any member of this Association shall be suspended or expelled, the Board of Athletics shall have the power to take that final action.

(I) Appeals: The decision of the arbitrators may be appealed pursuant to USATF Regulation 11-P.

Any person or entity may appeal an adverse finding made by a Hearing Panel to USATF. A notice of appeal must be filed with the CEO of USATF and the Secretary of the Pacific Association within thirty (30) days of receipt of the written opinion of the local hearing panel. The procedure for the grievance to be resolved by a formal grievance proceeding before a National Athletics Board of Review is covered in USATF Regulation 11.

ARTICLE 198. REMOVAL OF OFFICERS FROM OFFICE

(b) by a two-thirds vote special meeting called for this purpose of the appropriate committee or subcommittee in which the officer holds office, or the Board of Athletics if appropriate. The Association or appropriate committee or subcommittee shall provide the requisite notice for such a meeting to its members, the officer involved and the filer of the Notice as to where and when the removal discussion and vote will be held which will be clearly indicated on its agenda. Notice for this special meeting will be the same as for a normal meeting of the appropriate body (see Article 9(f) for Board of Athletics).

(c) The Board of Athletics can only get involved in removal of an officer of a committee or subcommittee when a said officer was appointed by the Board of Athletics or the Board of Directors or a grievance is filed because the appropriate committee or subcommittee has not acted upon a "Notice To Remove for Cause" for said removal within 60 days of it being received. An extension may be granted if agreed to by the Officer involved and the Notice Filer.

(d) The "Notice to Remove for Cause" would normally be filed with the appropriate secretary of the committee or subcommittee or the Chair of the same. The individual receiving the Notice will inform the other committee members so that they can decide how the issue should be handled.

(e) Good cause can be, but is not limited to, the following examples:

- 1) Failure to follow these By-laws and associated Operating Procedures of the Association or the appropriate committee;
- 2) Engaging in conduct that reflects unfavorably on USATF.
- 3) Failure to have current year membership by January 1st.
- 4) Misappropriation of funds;
- 5) Requesting reimbursement of expenses when said expenses were reimbursed by another party (double-dipping);

6) Failure to comply with any local or national rules or policies (for example, intentional illegal use of logos);

7) Unethical behavior;

8) Conflict of interest.

(f) **Right of Appeal:** Any officer "Removed For Cause" can appeal that decision using the Article 17 procedure and the Association Arbitration Hearing Panel or if they feel they cannot get a fair hearing they can appeal directly to USATF under USATF Regulation 11-P using the procedure outline in Article 17 (l) where the time frame is from the notification of their removal from office.