

# Policy III

## Part 1 – Administration

### **1. Definitions. As used in this policy, the terms set out below shall have the following definitions:**

- a. “CEO” means the person occupying the office of Chief Executive Officer of USAC, whether permanently or on an interim basis. Whenever this Policy requires or authorizes action of any nature by the CEO, the CEO may, in the exercise of discretion, delegate said action to a subordinate employee.
- b. “Code of Conduct” is any established Organizational document providing ethical and behavioral rules governing the behavior of persons associated with USA Cycling.
- c. “Complainant” means the person submitting a complaint seeking the discipline of a Member.
- d. “Complaint” means a written request that disciplinary action be taken against a Member or licensee.
- e. “Disinterested” means a person not personally affected by the outcome of an investigation or hearing and none of whose relatives, significant other, sponsors, Club, teammates, or business interests will be affected by the outcome.
- f. “Grievance” any request for redress filed by a Member that:
  - i. is not prohibited or excluded under Part 1, Section 4 of this Policy,
  - ii. pertains to USAC’s recognition as a national governing body,
  - iii. pertains the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition
  - iv. does not request the imposition of discipline on a Member.
- g. “Grievant” means the person filing a Grievance.
- h. “Hearing” means any hearing conducted pursuant to the administrative procedures set forth in this Policy.
- i. “Hearing Panel” means a group of three impartial individuals, one of which shall be an “athlete representative” as defined in Section 8 of the United States Olympic Committee (USOC) Bylaws, appointed to hear Grievances and Complaints.

- j. “Impartial” means a person who
  - i. neither harbors nor may have an appearance of harboring any prejudice towards or against any of the parties to the Complaint or Grievance or potential witnesses, and
  - ii. has no personal interest in the outcome of the Complaint or Grievance.
- k. “Malfeasance” means any conduct whether by act(s) or omission(s), which under the circumstances were of a nature to bring discredit upon USAC or were to the prejudice of USAC, even if the alleged act(s) and/or omission(s) is/are not specifically prohibited or required by the bylaws, policies or rules of USAC, or in violation of a law(s), regulation(s) or ordinance(s) binding upon the public generally.
- l. “Member” means a Member of USAC together with persons participating in a bicycle race held under a USAC permit and race promoters and their employees, independent contractors, and volunteers.
- m. “Protected Competition” has the meaning set forth in the Bylaws and/or Regulations and Policies of the USOC and/or The Act and judicial interpretations thereof, as they may be amended from time to time.
- n. “Respondent” means the person against whom either a Grievance or a Complaint, as the case may be, is filed under this Policy.
- o. “Risk Protection Manager” means the person occupying the office of Risk Protection Manager of USA Cycling, whether permanently or on an interim basis. The Risk Protection Manager is responsible for overseeing Member compliance with the USA Cycling Code of Conduct and compliance with SafeSport, as defined by USA Cycling.
- p. “SafeSport Committee” means a group of impartial individuals who are eligible to hear and adjudicate cases brought by the Risk Protection Manager or claims involving violations of the USA Cycling SafeSport Policies. The CEO shall name an individual as Chair of the Committee.
- q. “SafeSport Hearing Panel” means a Hearing Panel selected from members of the SafeSport Committee.
- r. “Service” or “Serve” means delivery of documents or other materials in a manner specified in Part 1, Section 5c of this Policy in a bona fide attempt to provide actual notice to a potentially affected Member.
- s. “The Act” means the Ted Stevens Olympic and Amateur Sports Act, 36 U.S. Code §220501, et seq.

## **2. Administrative Procedures.**

### **a. Who May File Grievances and Complaints.**

- i. Any Member may file a Grievance or Complaint.
- ii. Any Member who believes they have been denied an opportunity to participate in a Protected Competition may file a Eligibility Grievance pursuant to Part 2.
- iii. Any Member may file a Complaint pursuant to Part 3 seeking the imposition of disciplinary action on another Member.

### **b. Requirements of a Grievance. To be considered, the Grievance must:**

- i. be submitted in writing to USAC at: 210 USA Cycling Pt, Suite 100, Colorado Springs, CO 80919,
- ii. be signed by the person submitting the Grievance,
- iii. include a concise statement of the facts upon which the Grievance is predicated,
- iv. specifically identify the individual(s) responsible for circumstances or event(s) giving rise to the Grievance;
- v. specify the relief sought,
- vi. be accompanied by a filing fee of \$300.
- vii. except as set forth below, be submitted within 60 days of the time that the Grievant knows, or should have known, the facts giving rise to the Grievance.

### **c. Requirements of a Complaint. Except as provided in Section 3, to be considered, a Complaint must:**

- i. be submitted in writing to USAC at its principal place of business; and,
- ii. be signed or electronically authorized by the person submitting the Complaint; and,
- iii. include a concise statement of the facts upon which the Complaint is predicated;

- iv. identify the rule, bylaw, policy, or code of conduct violation(s) upon which the Complaint is predicated (which identification shall not necessarily serve to limit consideration of the Complaint);
  - v. specifically identify the individual(s) against whom the Complaint is directed;
  - vi. except as set forth below, be submitted within 60 days of the date upon which the Complainant knew, or should have known, of the facts giving rise to the Complaint.
  - vii. be accompanied by a filing fee of \$300, except as set out below.
- d. **Copy to Risk Protection Manager.** The CEO shall submit a copy of each Grievance and Complaint to the Risk Protection Manager, who shall have the right to pursue the Grievance or Complaint pursuant to Section 3c below by notifying the CEO within seven business days of the intent to do so.

### 3. Other Methods to Initiate Complaint.

- a. **Chief Referee Report.** A report from the Chief Referee of a sanctioned event requesting the suspension of a rider-Member for misconduct at the sanctioned event shall be deemed a Complaint under Part 1 and shall be processed accordingly. There is no fee for a complaint initiated under this section.
- b. **CEO May Initiate.** A Complaint may be initiated by the CEO. The CEO shall not be required to pay a filing fee.
- c. **Risk Protection Manager May Initiate.** The Risk Protection Manager may initiate a Complaint against any Member, and may convert any Grievance or Complaint filed with USA Cycling to a Complaint filed by the Risk Protection Manager. The Risk Protection Manager shall not be required to pay any filing fee.
  - i. Except as otherwise set forth in Sections 3c(ii)-3c(v) below, the processing of a Complaint initiated by the Risk Protection Manager shall be as set forth in Part 1, Sec. 5 herein, including the appointment of an investigator under Section 5a. et seq.
  - ii. Upon appointing an investigator as set out in Section 5a, the CEO shall notify the SafeSport Committee of the case. The Chair of the SafeSport Committee shall thereupon appoint a SafeSport Hearing Panel.
  - iii. Upon completion of the investigation as set forth in Section 5g, the investigator shall deliver the report to the CEO, the SafeSport Hearing

Panel, and the Risk Protection Manager. An investigator's conclusion of no merit under Section 5i shall be entitled to such weight as the SafeSport Hearing Panel may deem appropriate, but shall not be given preclusive effect. Notwithstanding any provision to the contrary, the SafeSport Hearing Panel may dismiss the Complaint without further proceedings if, upon initial review of the investigator's report, it determines that the investigator properly reached a conclusion of no merit.

iv. Except as otherwise set forth herein, a hearing by the SafeSport Hearing Panel shall follow the procedures for a complaint hearing as set forth in Part 1, Sec. 6 herein.

v. No time limitation shall apply to the filing of a Complaint by the Risk Protection Manager, nor shall any time limitation be imposed, inferred, or implied on the basis that the underlying Complaint would be time-barred if brought directly by an individual.

**4. Items That Shall Not Be the Subject of a Grievance or a Complaint under this Policy. The following matters shall not be subject to adjudication under this policy.**

a. Claims of misconduct or error on the part of USADA personnel or a UCI Anti-Doping Inspector, or laboratories utilized by either USADA or the UCI; or otherwise arising from or related to the imposition of discipline (or failure to impose discipline) for any actual or alleged doping offense(s).

b. Claims of error in the interpretation or application of the racing rules or the application of a penalty, or any other claim arising in the course of a USAC or UCI sanctioned event, which was, or could have been, the subject of a protest to the Chief Referee, Chief Judge, or a race jury, including without limitation, the imposition of penalties such as relegation, additional time, disqualification, or the imposition of a fine of less than \$500.

c. Claims related to the imposition of sanctions or other discipline under Part 3.

d. Claims concerning specific action(s) or inaction(s) by the Board of Directors in the direction or management of USAC.

e. Matters over which the U.S. Center for SafeSport exercises jurisdiction.

**5. Processing a Grievance or Complaint. Except as otherwise set forth in Parts b-e below, a Grievance or Complaint shall be processed as follows:**

a. Appoint a disinterested and impartial Member, or agent to investigate the Grievance or Complaint. The investigator so appointed shall not be a USAC officer, employee or director. With respect to a Complaint filed by the Risk

Protection Manager, the CEO shall also appoint a SafeSport Hearing Panel as set forth above in Section 3c(ii).

- b. Send the Grievant or Complainant a notice acknowledging receipt of the Grievance or Complaint which shall include:
  - i. the name and contact information for the Investigator,
  - ii. the date by which the investigation is projected to be concluded, and
  - iii. a copy of this Policy.
- c. Serve upon each and every individual whose conduct is the subject of the Grievance or Complaint (i) a notice of the filing of the Grievance or Complaint and (ii) a copy of the Grievance or Complaint. No notice need be served upon USAC as a Respondent. The notice shall include:
  - i. an invitation to respond in writing to the Grievance or Complaint, which response must be received by USA Cycling not fewer than three days before the date scheduled for the completion of the investigation.
  - ii. the name and contact information for the Investigator,
  - iii. the date by which the investigation is projected to be completed, and
  - iv. a copy of this Policy.
- d. No Member shall have the right to insist that any Complaint be administered under this Section 5 in lieu of the procedures set forth for a Risk Protection Manager Complaint above, nor shall any Member have the right to preclude a Complaint from being administered as a Risk Protection Manager Complaint.
- e. **Service Methods.** For purposes of this Policy, service may be accomplished by (i) hand delivery; or (ii) mailing by certified US mail, return receipt requested, postage prepaid, to the current address of the party served as reflected on the records of USAC; or (iii) by overnight delivery by a recognized courier that maintains a record of the delivery to the current address of the party served as reflected on the records of USAC. Service shall be deemed complete, as appropriate, (i) at the time of personal hand delivery, or (ii) three business days after deposit of the certified envelope in the US Mail, postage prepaid, or (iii) one business day after depositing for shipment by overnight courier.
- f. **Objection to Investigator.** Should a Grievant, Complainant, or any Respondent believe that the appointed Investigator is not disinterested or not impartial, they shall promptly so inform the CEO in writing with a statement of

reason(s). Upon investigation and review, if the CEO determines the Investigator may not be impartial or disinterested, the CEO shall appoint a different Investigator.

- g. Investigation of the Grievance or Complaint.** The investigation of the Grievance or Complaint shall include a review of all relevant documents provided with the Grievance or Complaint and such interviews as the Investigator may deem necessary with the parties and any other persons having information related to the subject matter of the Grievance or Complaint. Upon completion of the investigation, the Investigator shall prepare and deliver to the CEO a written report of the investigation and a recommendation as to appropriate disposition of the Grievance or Complaint. In the case of a Complaint filed by the Risk Protection Manager, the investigator shall also deliver copies of the report to the SafeSport Hearing Panel and to the Risk Protection Manager. The CEO will serve copies of the investigation report on all of the Parties. No service need be made upon USAC, if it is a party.
- h. Mediation of the Grievance or Complaint.** In appropriate cases, without being limited by the recommendation of the Investigator, the CEO may attempt to mediate a Grievance or Complaint. If mediation is successful, the agreed upon resolution shall be recorded in a form that includes the written acknowledgment by all interested Parties of that resolution. Unless agreed by all persons with an interest in the outcome of the Grievance or Complaint, and by the CEO, mediation shall not delay or prolong the Investigation, delivery of the Investigator's report, or the time for demanding or holding a Hearing, if one is requested.
- i. Investigator's Conclusion of No Merit.** Except for Complaints filed by the Risk Protection Manager, when the Investigator report includes a determination or conclusion that the Grievance or Complaint is without substantive merit, the CEO shall inform the Grievant or Complainant and the Respondent(s) that no further action will be taken on the Grievance or Complaint. The Parties shall have no further procedural rights or appeal rights, nor shall they have the right to challenge in any manner, whether by arbitration or court action at law and/or in equity, the CEO's decision to take no further action on a Grievance or Complaint based on the investigator's report. This provision shall only serve to limit USAC's adjudication of a Grievance or Complaint, and is not intended nor shall be interpreted to limit any civil claims that any of the parties may have against each other. With respect to Complaints filed by the Risk Protection Manager, the conclusion of no merit shall be admissible as evidence but shall not be given preclusive effect.

- 6. Grievance or Complaint Hearing.** Within ten (10) business days of service of the Investigator's report, any Respondent, including USAC if named as a



Respondent, may demand a hearing, and the panel appointed to hear a Complaint filed by the Risk Protection Manager may sua sponte order a hearing. In such event, the CEO shall (i) serve a copy of the hearing request on all of the other parties to the complaint, if any, and (ii) appoint three disinterested and impartial individuals as a Hearing Panel to hear the Grievance or Complaint (the "Hearing Panel"), and (iii) name one of them as chair of the Panel.

- a. Written Demand and Fee.** A demand for a hearing must be (i) in writing and (ii) must be accompanied by a hearing fee in the sum of \$300 except that no fee shall be required for a complaint filed by the Risk Protection Manager.
- b. Waiver of Hearing by Respondent.** A Respondent who does not file a written response to the Grievance or Complaint within three days prior to the close of the investigation shall be deemed to have waived the right to demand a hearing. In addition, the right to a Hearing shall be deemed to have been waived by the Respondent if the Respondent does not request a hearing within ten (10) business days of service of a copy of the Investigator's report. Merely filing a response to the Grievance or Complaint does not constitute a request for a hearing, which request must be made expressly following service of the Investigator's report.
- c. Time and Place of Hearing.** The Chair of the Hearing Panel will select the time and place for the Grievance or Complaint Hearing so as to have the hearing occur at the earliest convenient date consistent with adequate time for preparation by the parties, which shall not be fewer than 15 days nor more than 90 days after appointment of the Hearing Panel unless the Hearing Panel specifically determines that a longer period is necessary in the interests of justice. The Hearing Panel may 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 grievance and taking into consideration any related deadlines or forthcoming competition or event. The Hearing Panel Chair shall make every reasonable attempt to hold the hearing on a day and time such that the Respondent and all other parties can participate as set out below.
- d. Manner of Hearing.** The Chair will conduct the hearing in person, by telephonic conference call, video conference, or other similar electronic means. The Chair will communicate information about the hearing schedule to the CEO and all interested parties. No party shall be entitled to an in-person hearing; rather all hearings shall be by telephonic or video conference unless the panel, in its sole discretion, determines an in-person hearing is required.
- e. Impartial Panel.** If any party with a direct interest in the outcome believes that a Hearing Panel member is not disinterested or impartial that party may challenge the participation of that member to the CEO. The panel member



challenged will be presented with the challenge and may upon review recuse him/her self. If the panel member does not recuse him/her self, then the CEO shall review the objection and comments of the panel member, if any, and when there is the appearance of impropriety may, in the exercise of discretion, replace that member.

- f. Documents Provided to Panel.** Prior to the hearing, the CEO will provide to each member of the Hearing Panel a copy of (i) the Grievance or Complaint, (ii) all attachments to the Grievance or Complaint, (iii) any written response or other materials previously submitted by the Respondent(s), (iv) any relevant documents in the possession of USAC, and (v) all of the documents collected by the Investigator, and (vi) the Investigator's summary and report.
- g. Due Process.** Every Member is entitled to due process. Accordingly, the procedures to be followed at the hearing shall at minimum include the opportunity for each Party (i) to be represented by counsel, (ii) to present oral or written evidence, (iii) to cross-examine witnesses, and (iv) to present such factual or legal claims as may be relevant to their respective claim(s) or defense(s). Nothing in this subsection shall be deemed to permit any person to demand a hearing in person.
- h. Recording the Hearing.** Any party to a hearing may cause the Hearing to be stenographical reported or electronically recorded. The cost thereof shall be borne by the party requesting the recordation, and the nature of the recording process shall be announced on the record at the beginning of the Hearing. The recording or transcript shall be made available to every other party upon reimbursement of a pro rata share of the recording and transcription expense, and to the CEO and the Hearing Panel at no cost. No person may secretly record a hearing, or cause a hearing to be secretly recorded, in any form.
- i. Burden of Proof.** In the conduct of a Complaint or Grievance under Part 1 or Part 2, the burden shall be upon the Complainant or Grievant to prove the allegations of the Complaint or Grievance by a preponderance of evidence. In a disciplinary hearing under Part 1, the burden shall be on the CEO or the CEO's designee to prove the case for discipline by a preponderance of the evidence.
- j. Decision of the Panel.** Decisions about the merits of the Grievance or Complaint and the form of remedies, including the nature and extent of discipline, shall be made by majority vote of the Hearing Panel. The Hearing Panel shall report its decision on the merits within ten (10) days of the conclusion of the hearing. The decision shall be sent to the CEO who shall forthwith provide a copy to all parties.

- k. Finality of Decision.** The resolution of a Grievance or Complaint pursuant to this Policy shall be final. The remedies afforded the Parties under this Policy III shall be the sole and exclusive remedies available to them with respect to or arising from the Grievance or Complaint and/or its subject matter, except as set forth in Part 1, Section 9; provided, however, in no event shall any Party have the right to challenge or seek to overturn the outcome of the Grievance or Complaint or the procedures set forth in this Policy III, in a court of law and/or equity.
- 7. 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 its own legal and/or representation fees in all proceedings under this Policy, and in any and all subsequent related proceedings, including arbitration, in those limited circumstances in which further proceedings are authorized by law. No Hearing Panel shall have the authority to award attorneys' fees as part of any remedy, although the Hearing Panel may order that one party bear the reasonable cost of any investigation.
- 8. Waiver of Hearing.** Any party may waive his or her right to a hearing at any stage of the proceedings. A party who has previously requested a Hearing and tendered the hearing fee, shall have the hearing fee refunded if the hearing requested is withdrawn in writing served upon the CEO not less than 2 business days prior to the scheduled commencement of the Hearing.
- 9. Arbitration.** USAC agrees to submit to binding arbitration in any controversy (a) involving its recognition as a national governing body, as provided for in section 220529 of the Act, upon demand of the USOC; and (b) the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, upon demand of the USOC or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, conducted in accordance with the Commercial Rules of the American Arbitration Association, as modified in accordance with the Act.

## **Part 2 – Rider Eligibility**

- 10. Right to Grieve.** No rider who is otherwise qualified to compete may be denied entry in a Protected Competition without the right to a Hearing. Notwithstanding the foregoing, field-of-play decisions made by race officials during a competition are not subject to a Hearing even if the decision(s) ultimately affect a rider's eligibility for a Protected Competition.
- 11. Special Provisions Concerning Hearings on Rider Eligibility.** Grievances concerning rider eligibility shall be processed and determined in accordance with Part I, provided, however, the following additional provisions shall apply to any

Hearing conducted on a rider eligibility Grievance, and shall prevail over any contrary provision of Part 1.

- a. Whenever necessary to assure a Hearing prior a Protected Competition, the CEO or Panel Chair may shorten the time periods otherwise applicable to the Investigation and Hearing Procedures; and in an appropriate case the CEO may send the Grievance directly to a Hearing Panel, eliminating the independent investigator phase entirely.
- b. In any Hearing concerning the eligibility of an athlete, the athlete shall always have the right to an expedited Hearing.
- c. If the Hearing Panel finds that an athlete has been wrongly denied eligibility, it shall declare the athlete to be eligible.
- d. Whenever the decision of a Hearing Panel on rider eligibility has the potential to adversely impact the eligibility or appointment of any other athlete to participate in a Protected Competition, every other athlete who may be adversely affected by the outcome shall be given notice of the Hearing and the right to participate and present evidence as an additional interested party, without the payment of any fee arising from the grievance or hearing, other than fees of counsel should that athlete elect to engage an attorney or other representative.

## Part 3 – Member Discipline

- 12.Scope.** All Members of USAC and all persons who participate in any official function of USAC are subject to disciplinary action as provided in this Policy. Members are also subject to disciplinary actions for their conduct at bicycle races in other countries.
- 13.Violations.** Any breach by a Member of a provision of USAC regulations, rules, policies, Code of Conduct, any act(s) of Malfeasance, or other action(s) to the prejudice of USAC or the sport of bicycle racing shall be subject to discipline.
- 14.Facility Agreements.** Any Member who acknowledges in writing any published rules of conduct for the use of a training, housing, or racing site obtained by USAC, or any race organizer for a particular event, and who subsequently violates these rules shall be subject to discipline.
- 15.Special Procedures Relating to Financial Obligations.** Members or other parties who present checks to USAC, the UCI or to organizers of events for which race permits have been issued, which checks are dishonored by the banks upon which they are drawn, or who fail to pay any fine or other financial obligation due USAC, or the UCI, shall be subject to the following special disciplinary procedure:

- a. The Member will be informed of the obligation by telephone, e-mail, overnight courier, or regular US mail. After service of notice, the Member will have ten (10) business days to fulfill the obligation, failing which he or she will be subject to disciplinary action.
- b. Disciplinary action may include, without limitation, loss of eligibility to compete in USAC sanctioned races, or to conduct business with USAC, until the obligation is fulfilled. Delay in the fulfillment of the Member's obligation may, at the discretion of the CEO, be followed by an additional period of ineligibility.
- c. There shall be no appeal from discipline imposed under this section. Notwithstanding the foregoing, if the disciplined party is an athlete who may lose eligibility to compete in a Protected Competition as a result of such disciplinary action, the sanction or discipline imposed shall be a "recommendation for discipline." If the athlete does not accept that recommendation, it shall be deemed to be a Rider Eligibility Grievance and shall be administered as such.

**16. Club, Team, or Sponsor Affiliation.** A Member who fails to abide by applicable USAC regulations concerning club, team, or sponsor affiliation and competition shall be subject to discipline including, without limitation, loss of eligibility to compete in USAC races until such regulations are complied with, followed by an additional period of ineligibility.

**17. CEO to Determine Nature and Scope of Discipline.** In any disciplinary matter involving any Member (except as otherwise provided herein), if no hearing is requested under Part 1, the CEO shall determine the penalty, if any, to be imposed, which may include a suspension or other loss of eligibility. The CEO will, in the exercise of discretion, determine the length of any such suspension or loss of eligibility and the date on which such loss of eligibility or suspension shall commence.

**18. Suspensions by Other Entities.** USAC shall honor the suspensions or other disciplinary actions imposed by the WADA, the USADA, the USOC, the USCSS, the UCI, and UCI Member National Federations.

**19. Criminal Conduct by Members.** On receipt of notice that a Member has been accused of, charged with, convicted of, or pled guilty or *nolo contendere* or its equivalent, to criminal conduct, the CEO may file a Complaint against such Member.

**20. Interim Measures.** At any point before a Grievance or Complaint is resolved, interim measures may be taken against a Respondent if the allegations against such Respondent are sufficiently serious that the CEO reasonably believes (1) there is an imminent threat to the safety or wellbeing of others or (2) the

Respondent's continued participation could be detrimental to the sport of cycling or its reputation. Such interim measures may take whatever form the CEO determines to be reasonable considering the circumstances, up to and including suspension of the Respondent's license indefinitely pending the opportunity to be heard pursuant to this Policy III.

- a. Notice.** Unless imposed under emergency circumstances involving an imminent threat of harm, the CEO will notify a Respondent that he/she will impose interim measures unless the Respondent requests an interim measures Hearing.
- b. Interim Measures Hearing.** The interim measures Hearing shall be (i) telephonic, (ii) conducted by a Hearing Panel or SafeSport Hearing Panel, (iii) implemented on the most expedited basis possible, and (iv) strictly limited to determining whether there exists reasonable cause to impose one or more interim measure(s).

**21. Malfeasance and Misfeasance by an Official.** As used in this section, the term "malfeasance" includes not only the definition as set forth in Part 1, Section 1k, but also includes demonstrable incompetence as an official.

- a.** As used herein, the term "misfeasance" means (i) conduct not amounting to malfeasance but which calls into question the official's ability to perform effectively, including, without limitation, a pattern of poor judgment and/or erroneous decisions and/or erroneous interpretations of the racing rules, and/or a pattern of poor performance; (ii) a clearly erroneous decision materially affecting the outcome of a race or event; (iii) any other unacceptable conduct as an official not rising to the level of malfeasance. "Malfeasance" shall have the meaning set out above.
- b.** Except in cases of bribery, dishonesty, a pattern of error, or other exceptional circumstances, decision(s) by an official under the racing rules shall not be construed to constitute malfeasance or misfeasance.
- c. Penalties.** Penalties that may be imposed upon officials for malfeasance or misfeasance, in order of severity, are:
  - i.** Letter Expressing Concern with Performance;
  - ii.** Written Reprimand;
  - iii.** Removal from the National Assignment Process for a defined period of time;
  - iv.** Downgrading in Rank;

- v. Suspension of the official's license for a defined period; and
  - vi. Lifetime ban on Officiating.
  - vii. Notwithstanding the foregoing, and in addition or in lieu thereto, when appropriate, offending officials may be required to attend mandatory additional training or educational programs, including without limitation, classes offered by USAC, and/or training offered by third parties which are appropriate to the individual official's rehabilitation.
- d. Notwithstanding the listing of potential sanctions in order of severity above, nothing in the Policy shall be construed or operate to require the imposition of progressive discipline. Any of the sanctions listed above may be imposed for a violation even if no previous sanction has been imposed on the individual at issue.

## **22. Procedure.**

- a. **Malfeasance.** Upon receipt of a credible Complaint against an official alleging malfeasance, the CEO shall either (i) refer the Complaint to the Risk Protection Manager for administration under the provisions above or (ii) appoint an investigator. Any investigator so appointed shall be an international or national Commissaire drawn insofar as practicable from the racing discipline under which the complaint arose. The investigator shall investigate the matter and report findings and recommendations to the CEO in the same manner and within the same time frame as Part 1. Upon receipt of the investigator's report, the CEO shall impose the discipline recommended, if any, or such lesser discipline as the CEO shall in the exercise of discretion deem appropriate. If the investigator finds the complaint to be without merit, the complaint shall be dismissed and no negative implications shall be drawn from the fact the complaint was filed. No official shall have the right to require that a Complaint be administered under this Section 23 rather than under the procedures set forth above for Complaints by the Risk Protection Manager.
- b. **Misfeasance.** Upon receipt of a credible Complaint alleging misfeasance against an official, following an investigation that warrants further action, the CEO shall appoint a peer review committee. The peer review committee shall be chaired by a Member of the National Technical Commission not in the area of the official's residence. There shall be two other Members of the peer review committee drawn from officials of the same or higher rank as the accused official. The CEO or his designee may suspend an official from serving in any official capacity during a pending investigation or peer review committee proceeding.

- i. A peer review committee may also be appointed if an official receives an evaluation from a National Evaluator with an average score of less than 2.5, or upon the request of The National Technical Commission or any Regional Technical Commission.
- ii. If the peer review committee determines the allegation(s) against the official set forth in the complaint are without merit, the complaint shall be dismissed and no negative implications shall be drawn from the fact the complaint was filed.
- iii. A peer review committee shall remain in existence for whatever period, not to exceed 2 years, it believes necessary to rehabilitate the official for whom it was formed. When the peer review committee is of the opinion the official has been rehabilitated, it shall so notify the CEO and be dissolved.
- iv. Notwithstanding the foregoing, if the peer review committee affirmatively determines that counseling/mentoring are insufficient to remedy the problem(s), and that discipline is necessary or appropriate, it shall recommend the specific discipline in writing to the CEO who upon receipt thereof, shall impose the discipline recommended or in the exercise of discretion, any lesser form of discipline.

**23. Officials' Review Hearing.** If the official does not concur with the discipline imposed, the respondent–official may demand a hearing within 10 calendar days after receiving written notice of the imposition of discipline. All such hearings shall be conducted as set forth in Part 1; provided however, that the chair of the hearing panel shall be a Member of the USAC National Technical Commission not in the area of the official's residence.