

Resolution Panel Procedures

Resolution Panel (herein “the Panel” or “the Resolution Panel”) members, the Respondent, and all other participants agree to maintain confidentiality of the proceedings, subject to the Panel’s responsibility to issue and publish conclusions, notify USA Gymnastics, and comply with any reporting mandated by state or federal law.

A. Notice

1. USA Gymnastics Safe Sport will issue a Notice of Resolution Panel to the Respondent. The Notice will include:
 - a. Fair notice summarizing the reported violation, including the reported time frame and the relevant policy, code, or other authority for the alleged Safe Sport violation or other type of violation (e.g., Participant Welfare Policy, Code of Ethical Conduct, general community standards);
 - b. A proposed hearing date, no less than thirty (30) days from the date of the Notice; and
 - c. The USA Gymnastics Confidentiality Acknowledgment and Agreement, which is also available on the USA Gymnastics website. Respondent must sign the USA Gymnastics Confidentiality Acknowledgment and Agreement in order to participate in discovery and in the hearing.
2. The Respondent will have five (5) business days to accept or reject the proposed hearing date. The Respondent may reject the proposed hearing date and request a new hearing date only upon showing of a bona fide conflict of the Respondent. The new date will be set based on availability of the assigned Panel and must fall within thirty (30) days of the originally proposed date.
3. The hearing may proceed without the Respondent present upon proof of notice to that party, and upon approval of the Hearing Panel. The Respondent’s absence may be made part of the record, but may not be used as proof of guilt or acquiescence to the allegations.

B. Panel Construction

1. The Panel shall be constructed in accordance with both the USA Gymnastics Safe Sport Investigation and Resolution Procedures and United States Olympic and Paralympic Committee Bylaws, including Bylaw 8.5 (Regarding the construction of Designated and Other Committees).
2. Panelists shall not be subject to *voire dire* or questioning by the parties. Panelists will disclose conflicts to the parties upon discovery of any conflicts.
3. The Panel shall appoint a Panel member as Hearing Chair. The Hearing Chair shall:
 - a. Call the hearing to order and close the proceedings;
 - b. Place Witnesses under oath before testifying;
 - c. Transmit information on behalf of the Resolution Panel to the appointed USA Gymnastics Safe Sport administrator; and
 - d. Serve as the point of contact between the Panel and the USA Gymnastics Safe Sport administrator.

4. The Panel members shall each execute the USA Gymnastics Confidentiality Agreement prior to receiving any information on the underlying matter.

C. Standard of Review:

1. The moving party has the burden of proving, by a preponderance of the evidence, that the conduct or event occurred. A “preponderance of the evidence” means that it is more likely than not that the conduct or event occurred..
2. When determining an appropriate resolution, the Panel must assess the fitness and eligibility of the Respondent to participate in USA Gymnastics.
3. The Panel may rely on any noticed allegation, or any facts reasonably related to the noticed allegation elicited during testimony, to support its findings.
4. In reaching its findings and an appropriate resolution, the Panel should prioritize the future safety of the USA Gymnastics community and its athletes.

D. Discovery:

1. Respondent may receive discovery only after USA Gymnastics receives a USA Gymnastics Confidentiality Acknowledgment and Agreement (the “Confidentiality Agreement”) signed by the Respondent.
2. The Resolution Panel and the Respondent will receive the Resolution Panel Summary no less than fourteen (14) days before the scheduled hearing, contingent on the execution of the Confidentiality Agreement.
3. The Resolution Panel Summary will contain:
 - a. The Investigator’s Summary, if applicable;
 - b. The relevant policy, code, or other authority for the reported Safe Sport violation or other type of violation;
 - c. A summary of the anticipated testimony of each Witness to be called by USA Gymnastics; however, USA Gymnastics reserves the right to withhold the identities of the Witnesses until five (5) days before testimony begins; and
 - d. A copy of any exhibits to be submitted to the Resolution Panel.
4. Respondent’s Discovery
 - a. The Respondent shall provide to USA Gymnastics and to the Resolution Panel the following discovery no later than five (5) days before the hearing begins:
 - i. A list of Witnesses and summary of their testimony; and
 - ii. A copy of any exhibits to be submitted to the Resolution Panel.
5. The Resolution Panel will determine the admissibility of any evidence not submitted in accordance with this discovery schedule.

E. Procedures of Resolution Hearings

1. Except for Abuse of Process Resolution Hearings, which are addressed in Section F, Resolution Hearings are limited to twelve (12) hours of total sponsored testimony.
 - a. Six (6) hours will be reserved for the Claimants’ testimony as sponsored by counsel for USA Gymnastics, and six (6) hours will be reserved for the Respondent.
 - b. Parties will be given the opportunity for cross examination. Any time used will count towards the party’s total time.
 - c. Questioning by the Panel may be in addition to the twelve (12) hour time limit.

- d. Upon expiration of the party's six (6) hour allotment, the party may request the Panel conduct direct or cross examination by submitting a list of questions. The Panel has discretion whether to conduct any requested examination.
- e. The Panel may modify the hour allotment for good cause shown.
2. The Panel may call Witnesses other than those listed by either party.
3. All testimony shall be taken under oath.
4. The hearing shall be confidential. Any party discovered to provide access to the hearing or its contents, in any form and through any medium whatsoever, to an unauthorized person may be subject to expulsion from this and future proceedings. A Participant or Member who violates this provision may have his or her membership terminated and/or be subject to an independent abuse of process action.
5. USA Gymnastics will record the Resolution Hearing. The hearing record is confidential and will only be provided to the Respondent in accordance with the Confidentiality Agreement and for the limited purpose of arbitration. Panel deliberations will not be recorded.

F. Procedures of Resolution Hearings on Alleged Abuse of Process

1. Resolution Hearings to resolve alleged abuse of process ("Abuse of Process Resolution Hearings") will follow the procedures listed in Section E except that:
 - i. Abuse of Process Resolution Hearings will be limited to seven (7) hours of total sponsored testimony.
 - ii. Three and a half (3.5) hours will be reserved for the Claimants' testimony as sponsored by the attorney for USA Gymnastics, and three and a half (3.5) hours will be reserved for the Respondent.
 - iii. Parties will be given the opportunity for cross examination. Any time used will count towards the party's total time. Questioning by the Panel may be in addition to the seven (7) hour time limit.
 - iv. Upon expiration of the party's three and a half (3.5) hour allotment, the party may request that the Panel conduct direct or cross examination by submitting a list of questions. The Panel has discretion whether to conduct any requested examination.
 - v. The Panel may modify the hour allotment for good cause shown.

G. Witnesses

1. The Resolution Hearing shall be limited to essential parties only. Essential parties are the Resolution Panel Members, Respondent(s), advisor(s) to Respondent(s), counsel for USA Gymnastics, Claimant(s), a representative of USA Gymnastics Safe Sport, and the Witness(es) testifying under oath.
 - a. The Respondent, the Resolution Panel, and any party present for the testimony of another person must sign the USA Gymnastics Confidentiality Acknowledgment and Agreement protecting the testimony of any other person testifying.
2. Counsel for USA Gymnastics and an advisor to Respondent(s) have the right to an opening statement.
3. Claimants have the right to present a statement (either written or testimonial, depending on the circumstances of the hearing) to the Resolution Panel.

4. All Witnesses have a right to participate in the Safe Sport process. The identity and testimony of all Witnesses are protected under the protections provided by the USA Gymnastics Confidentiality Agreement. Publishing the name or identifying information of a reporting party, Claimant, or Witness outside the Safe Sport Process is a violation of these procedures, the USA Gymnastics Safe Sport Policy, and the SafeSport Code for the U.S. Olympic and Paralympic Movement.
5. The Resolution Panel is authorized to exclude any person from the hearing as a remedy for inappropriate conduct, mistreatment of a Witness, or other conduct the Panel deems as unethical or disruptive.
6. Witnesses may only testify as to the occurrence of the facts underlying the noticed allegations. General character evidence is inadmissible, except that the Hearing Panel may choose to receive and consider such evidence as part of determining an appropriate sanction/resolution.
7. A Claimant may be accompanied by legal counsel as an advocate during the Claimant's participation in the hearing.
 - a. A Claimant's legal counsel may provide support and advice to the Claimant but may not speak on behalf of the Claimant or otherwise participate in, or in any manner disrupt, the hearing.

H. Evidence

1. The Panel shall determine the admissibility, relevance, and materiality of the evidence offered, without strict adherence to the rules of evidence, subject to these procedures.
2. Hearsay is admissible, subject to the discretion of the Panel.
3. The Panel may exclude evidence deemed by the Panel to be inadmissible, cumulative, or irrelevant.
4. Testimony of Minors:
 - a. The Panel should balance the welfare of the Minor with the probative value of the Minor's testimony. The Panel must consider whether the testimony of the Minor would create a more complete record than the hearsay testimony of a parent/guardian, including testimony as to what the Minor told the parent/guardian or others. The Panel must err on the side of the Minor's welfare.
 - b. A Minor's testimony should be factual and not presented as an emotional appeal or attack on any other Witness.
 - c. Notice of intent to call a Minor witness must be provided no less than five (5) days prior to commencement of the hearing.
 - d. Minors under the age of sixteen (16) will not be required to testify. Instead, the Panel will admit hearsay testimony by the child's parent or guardian. Any Minor between the ages of sixteen (16) and eighteen (18) should be permitted to testify only when the Panel has determined the Witness has an appropriate support network to ensure the process does not harm the Minor's well-being.
5. Prior or subsequent conduct of the Respondent may be considered in determining pattern, knowledge, intent, motive, or absence of mistake.
6. The Panel may rely on any noticed allegation, or any facts reasonably related to the noticed allegation elicited during testimony, as the basis for its findings.

7. The Resolution Panel will not receive (and neither party may introduce or mention) any resolution of the dispute proposed during any mediation or any effort to amicably resolve the matter.
 - a. Settlement negotiations between parties, including the resolution agreement, are not admissible for consideration by the Panel.

I. Deliberations

1. Factors for the Resolution Panel's deliberation. The Resolution Panel may consider all relevant factors, including the following, to the extent that each applies to the facts and circumstances of the case:
 - a. The interests of USA Gymnastics and the applicable Member Club in promoting a safe environment for Participants;
 - b. The seriousness of the proven Safe Sport violation or other type of violation;
 - c. The age and/or experience of the accused individual at the time of the Safe Sport violation or other type of violation;
 - d. The age of the person(s) who suffered the Safe Safe Sport violation or other type of violation;
 - e. The impact upon the person(s) who suffered the Safe Sport violation or other type of violation;
 - f. Information deemed relevant to rehabilitation to prevent further Safe Sport violation or other type of violation;
 - g. The person's fitness for continued participation in USA Gymnastics events and/or membership; or
 - h. Any other information that the Resolution Panel determines relevant to the appropriate sanction, including any other factor proposed by the Bylaws.

J. Findings

1. The Resolution Panel shall issue a written decision as soon as possible.
2. If the Panel finds that a Safe Sport violation or other type of violation occurred, then the Panel's written decision must contain the decision of the Panel and, at a minimum, each of the following:
 - a. The rules or policies the Resolution Panel believes were violated, if any;
 - b. A brief summary of the facts that support the decision;
 - c. The sanctions imposed by the Resolution Panel, if any;
 - d. Any mitigating factors considered by the Panel; and
 - e. Any aggravating factors considered by the Panel.
3. If the Panel finds that no Safe Sport violation or other type of violation has been proven, it shall issue a notice that the Panel "Finds No Proven Violation" as to that noticed violation.
4. If the Resolution Panel determines that the information provided during the hearing should have resulted in a different noticed violation (e.g. Safe Sport violations not reasonably related to the noticed violation(s)), the Panel may provide USA Gymnastics Safe Sport and the Respondent with revised recommended violation(s) and suggested sanction(s) or resolutions.

- a. The Respondent may then avail herself or himself of the full Resolution Panel process related to the newly identified violation(s) or request a finding from the seated Resolution Panel.
- b. The Resolution Panel may impose an interim measure pending resolution of the new violations and conduct a hearing on same.