

***USRowing Referee Committee
Sub-Committee for Ethics and Performance
Complaint Investigation and Hearing Process
June 25, 2014***

SafeSport, and other complaints involving members of the USRowing Referee Corps shall be submitted to the Director of Referee Programs for processing. The following procedures have been developed to handle such complaints. (The process is diagrammed in Appendix A)

1. **Filing a Complaint.** Under USRowing's SafeSport policies, complaints concerning the behavior of a USRowing referee shall be reported to the Director of Referee Programs.
2. **Form of Complaint.** The SafeSport incident reporting form found in the USRowing SafeSport Policy should be used for filing a complaint.
3. **Processing the Complaint.** Upon receipt of a complaint, the Director of Referee Programs working with the CEO USRowing will determine if the complaint should be processed under the USRowing Referee Committee, Sub-Committee on Ethics and Performance procedures or under the USRowing Board of Directors Grievance Procedures. Complaints heard under the Referee Committee, Sub-Committee for Ethics and Performance will generally be of a lesser nature. They will not include sexually oriented issues, issues involving a minor, issues involving a felony or issues to be prosecuted under state or Federal laws. Such issues will be referred to the USRowing Grievance Committee and/or the appropriate government agency. USRowing does not investigate suspicions or allegations of physical or sexual abuse, or attempt to evaluate the credibility or validity of such allegations, as a condition of reporting suspicions or allegations to the appropriate law enforcement authorities. If it is determined that the complaint falls under the Referee Committee, Sub-Committee for Ethics and Performance process, the Director of Referee Programs shall promptly:
 - (A) Notify the Chair of the Referee Committee of the complaint.
 - (B) Appoint one member of the Referee Corps, or an employee of USRowing, to investigate the complaint (the "Investigator"). The investigator may not be an individual who is: (1) directly involved in the conduct which is the subject of the complaint, or (2) responsible for the enforcement or promulgation of the specific rule or policy at issue in the complaint.
 - (C) Send to the Complainant a notice acknowledging receipt of the complaint. Such notice shall include: (1) the name of the Investigator, (2) the date by which the investigation will be concluded (but not more than 60 days from the date the notice is received by USRowing), and (3) a copy of these procedures. All notices and reports must be delivered by registered or certified mail, or other form of delivery creating a record of receipt. Additional copies of notices and reports may be sent by email.
 - (D) Send to the referee whose conduct is the subject of the complaint (the "Adverse Party") a notice

of the filing of the complaint and a copy of the complaint. The notice shall include: (1) an invitation to respond in writing to the complaint, (2) the name of the Investigator, (3) the date by which the investigation will be completed, and (4) a copy of these procedures. All notices and reports must be delivered by registered or certified mail, or other form of delivery creating a record of receipt. Additional copies of notices and reports may be sent by email.

4. **Investigating the Complaint.** The Investigator's investigation of the complaint shall include the review of all relevant documents and interviews (or attempted interviews) with the Complainant, the Adverse Party and other persons having information related directly to the complaint. Prior to beginning the investigation, the Director of Referee Programs will notify (by email or phone) the Complainant, the Adverse Party, and any witnesses or involved parties listed in the complaint, about the investigation, the name of the Investigator, and a brief background on the Investigator. (Appendix B)

5. **Report of the Investigator.** The Investigator will provide a written report, including any recommended penalties or proposed resolutions to the complaint, to the USRowing Director of Referee Programs.

6. **Mediation.** Within five business days of receipt of the Investigator's Report, the Director of Referee Programs, or his or her designee, will contact both the Complainant and Adverse Party to mediate the complaint. If mediation is successful, the agreed upon resolution will be recorded by the Director of Referee Programs in a form which includes the written acknowledgment of the Parties to the resolution. If mediation is not successful, or either the Complainant or Adverse Party decline mediation, the Complaint will be referred to the Referee Committee: Sub-Committee for Ethics and Performance.

7. **Administrative Structure of the Referee Committee: Sub-Committee for Ethics and Performance.** The Sub-Committee for Ethics and Performance ("Sub-Committee") shall consist of up to nine (9) people, appointed by the Chair of the Referee Committee in June of each even numbered year for a term of two years and until their successors are appointed and qualify. The Chair of the Referee Committee shall appoint one member of the Sub-Committee as the Chair. Members of the Sub-Committee shall not be employees or directors of USRowing. The Sub-Committee shall include at least two "athlete members" as that term is defined by the USOC through the AAC bylaws. The Director of Referee Programs will advise and shall arrange counsel, if required for the Sub-Committee and assist the Sub-Committee in the administration of the Hearing Process, including the creation of a standard set of procedures for the conduct of the hearing and the selection of members of the Hearing Panel.

8. **Hearing Process.** Upon receipt of a Complaint, the Chair of the Sub-Committee shall appoint three members from the Sub-Committee to serve as the "Hearing Panel". The Hearing Panel will be designated to hear and make recommendations on a specific complaint. The Chair of the Sub-Committee, may appoint himself/herself to the Hearing Panel. The appointment of the three-member Hearing Panel will include the designation of the Chair of the Panel. An athlete member, will be included on the Hearing Panel. The Chair of the Sub-Committee is responsible for confirming the availability of each appointee to serve on the Hearing Panel. Working with the Director of Referee Programs, the Hearing Panel shall be responsible for the following steps in the Hearing Process:

- (1) Set the Time and Date of the Hearing
- (2) Notify the Complainant and Adverse Party of the Hearing

- (3) Review the Complaint and Investigator's Report
- (4) Convene the Hearing
- (4) Hear testimony from the Complainant, Adverse Party, their counsel or representatives, witnesses, the Investigator, or others as deemed appropriate by the Panel members.
- (5) Discuss the Complaint
- (6) Determine appropriate sanctions, if required
- (7) Notify USRowing, the Complainant and Adverse Party of the Panel's decision.

9. **Conduct of the Hearing.** The Chair of the Hearing Panel in consultation with the Director of Referee Programs, shall select the time and place for the hearing. Hearings will generally be conducted by telephone. The hearing will be scheduled at the earliest convenient date. The Chair of the Hearing Panel will communicate the scheduled date/time, along with the identity of the other two members of the Hearing Panel, to the Complainant, Adverse Party, and Investigator through the Director of Referee Programs (Appendix C). Prior to the hearing the Director of Referee Programs will provide to the members of the Hearing Panel copies of the complaint, any written response previously submitted by the Adverse Party, documents collected by the Investigator and the Investigator's factual summary.

10. **Hearing Procedures.** Not less than 15 days prior to the hearing, the Chair of the Hearing Panel shall cause to be sent to the Members of the Panel, Complainant, Adverse Party, and Investigator a written copy of the procedures to be followed at the hearing. Those procedures shall include an opportunity for each Party to be represented by counsel, to present oral or written evidence, to cross-examine witnesses and to present such factual evidence as desired. (Appendix D)

11. **Decisions of the Panel.** All procedural and evidentiary decisions shall be made by the Chair of the Hearing Panel. Decisions about the merits of the complaint and form of sanctions shall be made by majority vote of the Hearing Panel. The Hearing Panel shall report its decision in writing to the Complainant, Adverse Party, and the Director of Referee Programs within ten (10) days of the conclusion of the hearing. The decision of the Hearing Panel shall include recommended penalties to be imposed, as appropriate, by the Referee Committee, Director of Referee Programs, or the USRowing CEO/Board of Directors.

12. **Penalties.** The Hearing Panel may recommend any of the following penalties upon an individual or organizational member of USRowing:

- A. **Reprimand:** A communication, either public or private, of USRowing's disapproval of the subject's actions. A reprimand may be combined with probation or suspension.
- B. **Probation:** A ruling that, for a specified time, the subject's continued participation at regattas or other USRowing activities is conditioned upon satisfaction of certain conditions. These conditions shall be described specifically, as shall the consequences of failing to meet them. The Panel may order that notice of probation be given to appropriate authorities, such as regatta directors.
- C. **Suspension of Referee License:** A recommendation that the subject's USRowing Referee License is suspended for a specified period of time.
- D. **Suspension:** A ruling that, for a specified time, the subject is forbidden from participating in or sponsoring registered regattas or other USRowing activities. The

Hearing Panel may limit the effect of suspension to certain activities or regattas, and may establish conditions, which if satisfied, will result in lifting of the suspension.

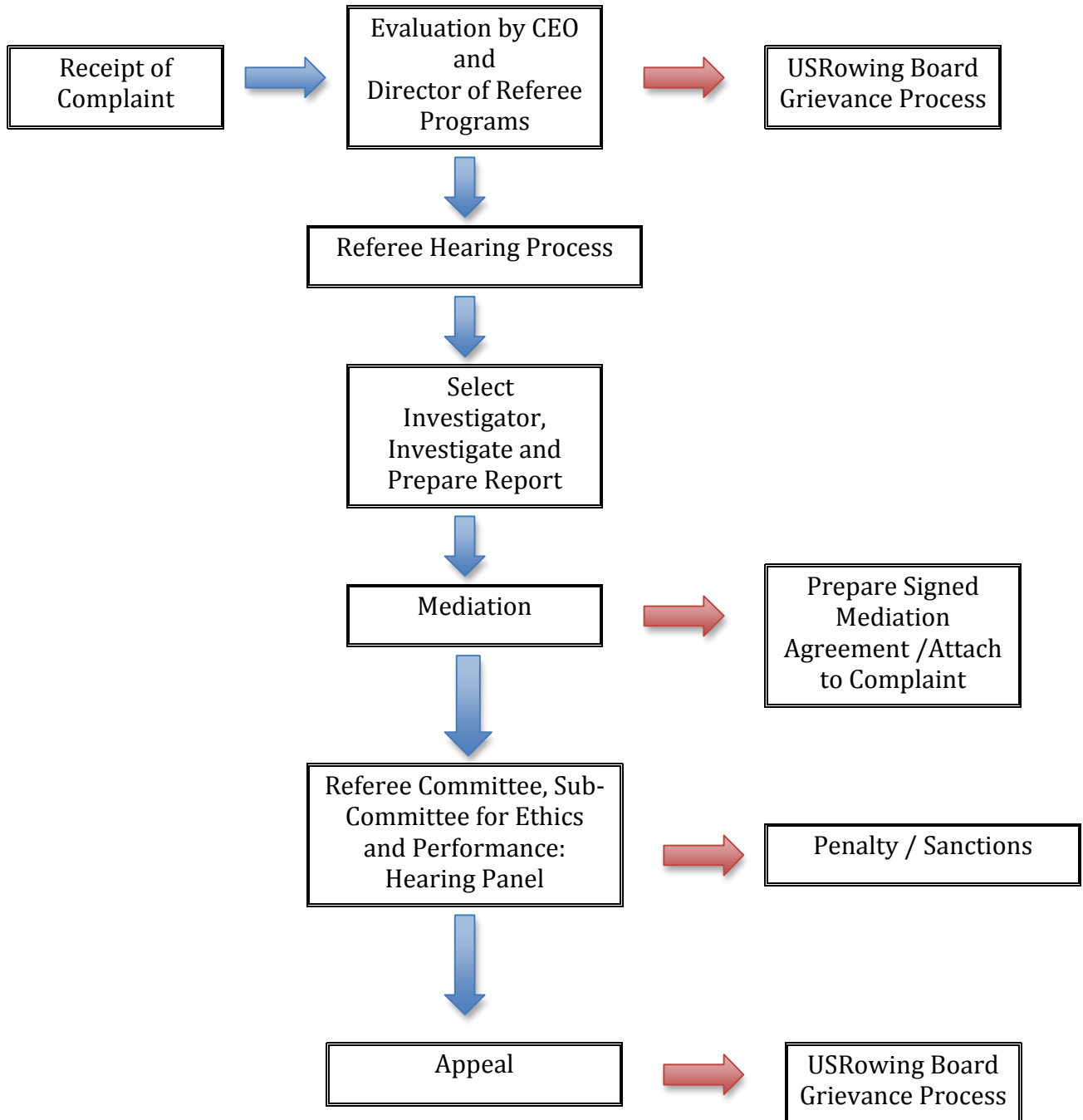
- E. Removal of Referee License: A recommendation that the subject's USRowing Referee License is permanently removed.
- F. Removal from Membership: A recommendation that the subject is removed either for a specified period or permanently from membership in USRowing.
- G. Other: The Hearing Panel may order such other relief as it deems appropriate (e.g. letter of apology or restitution including payment for damaging equipment), but may not impose monetary fines as part of its penalty.

13. **Appeal.** An appeal from a decision of the Hearing Panel may be taken by any of the Parties involved with the decision, by filing a grievance as outlined in the USRowing CEO Policy Manual. The Appeal must be filed with USRowing, within ten (10) days of receipt of the decision of the Hearing Panel. The notice of appeal must include the basis for the appeal. The appeal will be processed under the USRowing Grievance Process.

15. **General.** All notices, reports and decisions under the procedures contained herein shall be made in writing and delivered by registered or certified mail, or other form of delivery creating a record of receipt. Additional copies of notices and reports may be sent by email. Any time period under these procedures may be reduced by the USRowing Director of Referee Programs and the Chair of the Hearing Panel, if it is determined that such action is necessary to expedite the resolution of a controversy in order to do justice to any party. Participation in these investigation and hearing procedures shall be deemed to constitute agreement to be bound by the provisions of these procedures and any decisions, recommendations, or sanctions rendered in accordance therewith.

APPENDICIES: Referenced Documents

APPENDIX A - USRowing Referee Committee, Sub-Committee for Ethics and Performance Complaint, Investigation and Hearing Procedures - Outline



APPENDIX B - USRowing Referee Committee, Sub-Committee for Ethics and Performance: Investigator's Investigation Procedures



I. Investigator Reviews Complaint

- Discuss Complaint with Director of Referee Programs

II. Contact Complainant

- Review matter, research details including: date and time, location, Adverse Party, and witnesses.
- Request additional information as required.
- Provide the Complainant the opportunity to prepare and submit additional written materials.

III. Contact Adverse Party

- Review Complaint and research details including: date and time, location, witnesses.
- Request additional information as required.
- Provide the Adverse Party the opportunity to prepare and submit additional written materials.

VI. Contact Witnesses

- Review Complaint and research details including: date and time, location, and allegations of the Complainant.
- Provide opportunity for additional information.

V. Prepare Written Report of Findings and Recommendations

- Prepare Report of facts and findings.
- Provide the times, dates, and methods of contact for each person included in the investigation. If contact is unsuccessful, indicate the number of attempts and methods used to reach the contact. Include willingness of contact to participate. A minimum of 3 attempts should be made to reach each contact.
- Provide recommendations for resolution, if any.
- Submit Report and Recommendations to Director of Referee Programs.

VI. Presentation of Report to Hearing Panel

- The Director of Referee Programs forwards report to Hearing Panel
- Investigator is available for telephone Hearing to answer Hearing Panel questions.

Appendix C - Example Letter of Referee Hearing Notification



Via Federal Express & Email

[Date]

Addressee

Email: Email Address

Re: USRowing Referee Program - COMPLAINT AND HEARING NOTIFICATION

Dear:

The USRowing Referee Program has received the attached complaint concerning actions on (DATE). USRowing and the USRowing Referee Program recognize the importance of fully investigating and adjudicating complaints of this nature. As such, the Referee Program has developed a complete set of Investigation and Hearing procedures. These procedures include the identification of an independent investigator, procedures for mediation, and a Hearing Panel of the members of the Referee Committee, Sub-Committee on Ethics and Performance.

This letter is to notify you of your involvement in the complaint as well as the procedures that will be used to investigate and adjudicate the complaint.

Attached please find:

- 1) The "Complaint" as presented to the USRowing Director of Referee Programs.
- 2) The "USRowing Referee Committee, Sub-Committee for Ethics and Performance - Complaint Investigation and Hearing Process".
- 3) The "USRowing Referee Committee, Sub-Committee for Ethics and Performance - Investigation Procedures" (Appendix B).
- 4) The "USRowing Referee Committee, Sub-Committee for Ethics and Performance Hearing Procedures" (Appendix D).

As noted in these documents, you will be contacted by the Hearing Panel's investigator, to discuss the complaint. Please be prepared to provide the investigator with any information you deem important. The investigator may be contacting other individuals. While every attempt will be made to quickly work through this issue, please understand that the investigator may take 5 to 10 working days before contacting you.

After investigation, the Complaint Investigation and Hearing process allows for mediation. You will be contacted to discuss this option.

If a Hearing is required, the Complaint Investigation and Hearing process provides you the opportunity to be represented by counsel and to present oral or written testimony directly to the Hearing Panel. The time and date of this telephone Hearing will be provided to you. The Hearing will be conducted by teleconference.

Please respond to this letter in writing within 10 (ten) days. No particular form is required, but at a minimum, your written response must:

- Confirm your receipt of this notice
- Include your relevant current contact information (preferred physical address, phone number, and email address), including whether you prefer future correspondence regarding this matter to be sent via regular mail or email.
- In your response, you also have the option of including any additional written materials you want the Investigator to consider.

Please send and email your response to:

John Wik, Director of Referee Programs
USRowing
2 Wall Street
Princeton, NJ 08540

Email responses may be sent to jwik@usrowing.org.

Thank you for your time and cooperation during this process. Should you have any questions, please contact me.

Best regards,

John Wik, Director of Referee Programs
USROWING
2 EAST THIRD STREET
NEW CASTLE, DE 19720

302-383-9923

jwik@usrowing.org

Appendix D - USRowing Referee Committee, Sub-Committee for Ethics and Performance Hearing Panel: Outline of Hearing Procedures



- I. Introductions of individuals on the call
- II. Confirm that all Parties are aware that the call is being recorded
- III. Confirm whether each Party has anyone else on the line with him/her and whether or not they anticipate having anyone else join the call.
- IV. Introduce the matter:
 - a. Hearing of the Referee Committee, Sub-Committee on Ethics and Performance, Hearing Panel to hear issue of <Complainant v. Adversary Party> dated _____. This complaint was investigated by <investigator>. Copies of this report have been forwarded to the Complainant and Adversary Party, along with other pertinent information.
 - b. The Complainant and the Adverse Party, or their respective Counsel, will be given the opportunity to present written or oral testimony. They will also be provided the opportunity to cross-examine the opposing party or witnesses.
 - c. Following the presentation of all testimony and cross-examination, the Hearing Panel will excuse the Complainant, the Adverse Party, counsel, witnesses, and other attendees and deliberate the matter.
 - d. If appropriate the Hearing Panel may recommend Penalties following the Penalties section of the Complaint Investigation and Hearing Process document.
 - e. A report will be provided to both the Complainant and Adverse Party.
- V. Testimony:

Complainant

- a. Testimony
- b. Questions / Comments from Adverse Party
- c. Questioning by Hearing Panel and Hearing Panel Counsel

Adverse Party

- a. Testimony
- b. Questions / Comments from Complainant
- c. Questioning by Hearing Panel and Hearing Panel Counsel

VI. Final question from Panel to Complainant and Adverse Party:

“Do you feel you have been adequately heard and been provided fair process on this issue?”

VII. Hearing Panel Deliberations and Recommendations:

All parties except the Hearing Panel members, Investigator, and Director of Referee Programs are excused during the Hearing Panel Deliberation and Recommendation process.