
Appendix C. Statement of Ethics and Conflict of Interest Policy

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SECTION 1. STATEMENT OF ETHICS

USA Swimming, Inc. ("USA Swimming") seeks to promote a culture of ethical conduct within its organization and throughout its membership. USA Swimming is committed to developing and implementing policies and procedures to equip its members with the guidance and resources necessary to navigate ethical issues. This Statement of Ethics and Conflict of Interest Policy ("Conflict of Interest Policy") are intended to reflect certain organizational values, including respect for others, integrity and honesty, competence and accountability, and teamwork.

SECTION 2: CONFLICT OF INTEREST POLICY PURPOSE AND COVERED INDIVIDUALS

USA Swimming's Board of Directors (the "Board"), officers, committee members, task force members, hearing panel members, volunteers, and employees ("Covered Individuals") have the responsibility of administering the affairs of USA Swimming honestly and prudently, and of exercising their best care, skill, and judgment for the sole benefit of USA Swimming. Those persons shall exercise the utmost good faith in all activities and transactions involved in their duties, and they shall not use their positions within USA Swimming, or knowledge gained there from, for their personal benefit. The interests of the organization must be the first priority in all decisions and actions.

USA Swimming requires that Covered Individuals recognize and avoid activities, transactions, relationships, or investments that involve, might appear to involve, or could result in a perceived, potential, or actual conflict of interest. Additionally, where reasonable, contractors shall be required to comply with this Conflict of Interest Policy in their written contracts.

SECTION 3. CONFLICT OF INTEREST DEFINITION

A conflicting interest may be defined as an interest or relationship, direct or indirect, with any of the following:

1. Persons and firms supplying goods and services to USA Swimming.
2. Persons and firms from whom USA Swimming leases property and equipment.
3. Persons and firms with whom USA Swimming is dealing or planning to deal in connection with the gift, purchase or sale of real estate, securities, or other property.
4. Competing or affinity organizations.
5. Donors and others supporting USA Swimming.
6. Agencies, organizations, and associations which affect the operations of USA Swimming.
7. Relatives, friends, close associates, and other employees.

Such an interest might arise through the following activities, including but not limited to:

1. Owning stock or holding debt or other proprietary interests in any third party dealing with USA Swimming.
2. Holding office, serving on the board, participating in management, or being otherwise employed (or formerly employed) with any third party dealing with USA Swimming.
3. Receiving remuneration for services with respect to individual transactions involving USA Swimming.

4. Using USA Swimming's time, personnel, equipment, supplies, or goodwill for anything other than USA Swimming-approved activities, programs, and purposes.
5. Receiving personal gifts or loans from third parties dealing or competing with USA Swimming.¹

For example, a member of the USA Swimming Nominating Committee (including athlete members) may have a perceived, potential, or actual conflict of interest if a family member is applying for nomination to the Board.

In the event an individual is unsure whether they may have a perceived, potential, or actual conflict of interest, they should contact the Ethics Committee.

SECTION 4. CONFLICT OF INTEREST POLICY INTERPRETATION

The relationships and activities of potentially conflicting interest listed in Section 2 are not exhaustive. Conflicts might arise through other relationships or activities. Covered Individuals must recognize such relationships and activities by analogy.

The fact that one of the interests described in Section 2 exists does not necessarily mean that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material, that upon full disclosure of all relevant facts and circumstances it is necessarily adverse to the interests of USA Swimming. However, Covered Individuals must disclose the existence of any of the relationships and/or activities described in Section 2 before any related transaction is consummated. It shall be the continuing responsibility of Covered Individuals to scrutinize their transactions and outside business interests, investments, and relationships for perceived, potential, or actual conflicts and to immediately make such disclosures to USA Swimming.

Additional guidelines intended to assist Covered Individuals when making personal decisions relating to ethical behavior and conflict of interest include:

1. The business of USA Swimming is to be conducted in observance of both the spirit and letter of applicable federal and state laws.
2. USA Swimming properties, services, opportunities, authority, and influence are not to be used for private benefit.
3. Expenses incurred in furtherance of USA Swimming business are to be reasonable, necessary, and substantiated.
4. All are expected to exhibit honesty, loyalty, candor, and professional competence in their relationships with USA Swimming and with each other.
5. Each Covered Individual has the responsibility to maintain the confidentiality of the organization. This includes both proprietary and sensitive information.

SECTION 5. DISCLOSURE POLICY

Each Covered Individual shall annually sign a Disclosure Statement which affirms such individual:

1. Has received a copy of this Conflict of Interest Policy,
2. Has read and understands this Conflict of Interest Policy,
3. Has agreed to comply with this Conflict of Interest Policy, and

¹ Additional information regarding the receipt of gifts is outlined in USA Swimming's Gifts and Entertainment Policy.

4. Understands that USA Swimming is a charitable organization and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

As new perceived, potential, or actual conflicts of interest arise, Covered Individuals must update their written disclosure.

Moreover, Board and committee minutes must include the following when a perceived, potential, or actual conflict of interest is involved in a discussion:

1. The names of the persons who disclosed or otherwise were found to have an interest in connection with an actual or possible conflict of interest, the nature of the interest, any action taken to determine whether a conflict of interest was present, and the Ethics Committee's decision as to whether a conflict of interest in fact existed.
2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Additionally, the following individuals must complete separate disclosure forms:

Members of the Selection Procedure Approval Committee, who are responsible for the creation and enforcement of selection procedures
Any staff members involved in the creation and enforcement of selection procedures; and
Members of any panel empowered to resolve grievances.

The Secretary & General Counsel will distribute disclosure forms to the individuals listed above prior to (a) creating and enforcing a selection procedure or (b) sitting on a grievance panel. To the extent that any conflicts are identified in these Disclosure Forms, the Ethics Committee will review these Disclosure Forms as outlined above, prior to that individual's service.

SECTION 6. DISCLOSURE PROCEDURE

All Disclosure Statements will be provided to the Ethics Committee for review. The Ethics Committee must document its review of any disclosures, by demonstrating in its meeting minutes that each Disclosure Statement has been considered and drafting a memorandum to the Ethics Committee's file containing the evaluation of each disclosure. After disclosure of the perceived, potential, or actual conflict of interest and all material facts, and after any needed discussion with the interested person, the Ethics Committee shall decide if a conflict of interest exists and if there are mitigating measures that could be implemented to permit USA Swimming to move forward with the transaction or activity. If a member of the Ethics Committee discloses a perceived, potential, or actual conflict of interest, that member will recuse themselves from any discussion of the Disclosure Statement.

If the Ethics Committee determines that Covered Individuals must take certain steps to manage or avoid their perceived, potential, or actual conflict, that direction on conflict mitigation must be provided to the Covered Individual in writing and the Covered Individual must acknowledge receipt and understanding in writing, including recognition that directives must be followed as a condition of membership.

Transactions with parties with whom a conflicting interest exists may be undertaken only if all of the following, at a minimum, are observed:

1. The conflicting interest is fully disclosed to the Ethics Committee;

2. The Ethics Committee has reviewed the Disclosure Statement and considered alternatives to the proposed transaction or arrangement.
3. If the Ethics Committee determines that a more advantageous transaction or arrangement, free of any perceived, potential, or actual conflict of interest, is not reasonably possible under circumstances, the Ethics Committee shall determine whether the transaction or arrangement is in USA Swimming's best interest, for its own benefit, and whether it is fair and reasonable.
4. In conformity with the above determination, the Ethics Committee shall inform the Covered Individual and the Board or committee in writing whether there is a conflict of interest precluding USA Swimming from entering into the transaction or arrangement, or if there are mitigating measures that may be implemented to alleviate concerns regarding the perceived, potential, or actual conflict of interest.
5. The person with the conflict of interest must be excluded from the discussion and approval of such transaction.

Additionally, the following individuals must complete separate disclosure forms:

1. Members of the Selection Procedure Approval Committee, who are responsible for the creation and enforcement of selection procedures
2. Head Coaches and Assistant Coaches responsible for relay selection;
3. Any staff members involved in the creation and enforcement of selection procedures; and
4. Members of any panel empowered to resolve grievances

The Secretary & General Counsel will distribute disclosure forms to the individuals listed above prior to (a) creating and enforcing a selection procedure or (b) sitting on a grievance panel. To the extent that any conflicts are identified in these Disclosure Forms, the Ethics Committee will review these Disclosure Forms as outlined above, prior to that individual's service.

SECTION 7. VIOLATIONS OF THE CONFLICTS OF INTEREST POLICY

Members of USA Swimming must report alleged violations of this Conflict of Interest Policy to the Ethics Committee, per the process described in the Whistleblower and Anti-Retaliation Policy. USA Swimming strictly prohibits any retaliation, as defined in the Whistleblower and Anti-Retaliation Policy, for reporting any alleged violations of this Conflict of Interest Policy.

The Ethics Committee will investigate reports of any alleged violation of this Conflict of Interest Policy. An investigation may include but is not limited to: a review of relevant documentation or policies, and/or interviews with witnesses. If the Ethics Committee has reasonable cause to believe a Covered Individual has failed to disclose an actual or possible conflict of interest, or if the Ethics Committee determines that a Covered Individual has not followed one of its directives subsequent to disclosure, it shall inform the Covered Individual of the basis for such belief and afford the Covered Individual an opportunity to explain the alleged failure to disclose.

After the Ethics Committee reviews the Covered Individual's response, it will generate a report of its investigation and findings, and submit such report to all interested parties, as well as to the President & Chief Executive Officer (the "CEO") of USA Swimming and the Board, via email. If the Ethics Committee determines the Covered Individual has failed to disclose an actual or possible conflict of interest, or violated one of its directives following a disclosure, it will take appropriate and reasonable disciplinary and corrective action, including, but not limited to, retroactive disclosure and/or removal from the Covered Individual's leadership position(s) within the organization. The severity of the disciplinary or corrective action will depend upon the severity of the violation.

In the event a member of the Ethics Committee is the subject of the alleged violation and subsequent investigation, the CEO shall refer the matter to outside counsel.

Any appeal of the Ethics Committee's decision shall be referred to the National Board of Review.

SECTION 8. CONTACT INFORMATION

The USA Swimming Ethics Committee and the Secretary & General Counsel are responsible for the enforcement of this Conflict of Interest Policy. All inquiries and questions should be referred to the Ethics Committee or the Secretary & General Counsel:

ethicscommittee@usaswimming.org

Michelle Steinfeld
msteinfeld@usaswimming.org
719-866-3594

SECTION 9. ADDITIONAL RESOURCES

Athlete Ombuds

The Office of the Athlete Ombuds offers independent, confidential advice to elite athletes regarding their rights and responsibilities in the Olympic and Paralympic Movement, and assists athletes with a broad range of questions, disputes, complaints and concerns.

Athlete Ombuds Confidentiality and Privacy Policy

- (A) In general.—The Office of the Athlete Ombuds shall maintain as confidential any information communicated or provided to the Office of the Athlete Ombuds in confidence in any matter involving the exercise of the official duties of the Office of the Athlete Ombuds. (B) Exception.—The Office of the Athlete Ombuds may disclose information described in subparagraph (A) as necessary to resolve or mediate a dispute, with the permission of the parties involved. (C) Judicial and administrative proceedings.—(i) In general.—The ombudsman and the staff of the Office of the Athlete Ombuds shall not be compelled to testify or produce evidence in any judicial or administrative proceeding with respect to any matter involving the exercise of the duties of the Office of the Athlete Ombuds.
- (B) Work product.—Any memorandum, work product, notes, or case file of the Office of the Athlete Ombuds—(I) shall be confidential; and (II) shall not be—(aa) subject to discovery, subpoena, or any other means of legal compulsion; or (bb) admissible as evidence in a judicial or administrative proceeding. (D) Applicability.—The confidentiality requirements under this paragraph shall not apply to information relating to—(i) applicable federally mandated reporting requirements; (ii) a felony personally witnessed by a member of the Office of the Athlete Ombuds; (iii) a situation, communicated to the Office of the Athlete Ombuds, in which an individual is at imminent risk of serious harm; or (iv) a congressional subpoena.

Contact Information
Phone: 719-866-5000
Email: ombudsman@usathlete.org
Website: usathlete.org

USOPC Ethics & Compliance

The USOPC Ethics and Compliance team seeks to empower athletes, USOPC employees and volunteers, NGB employees and volunteers, and other individuals within the U.S. Olympic and Paralympic Movement to raise and report their concerns. Specifically, the USOPC's Ethic's and Compliance team reviews and investigates certain reports regarding NGB compliance with the Ted Stevens Olympic and Amateur Sports Act and the USOPC or NGB Bylaws, including conflicts of interest and governance issues. The team also reviews and investigates allegations of USOPC non-compliance and alleged code of conduct violations.

The USOPC Ethics and Compliance team accepts reports related to NGB compliance with the Ted Stevens Olympic and Amateur Sports Act and the USOPC or NGB Bylaws, including conflicts of interest and governance issues, as well as allegations of USOPC non-compliance and alleged code of conduct violations, including discrimination claims.

Contact Information

Any individual may report concerns confidentially, or anonymously, online using the USOPC Integrity Portal (<https://secure.ethicspoint.com/domain/media/en/gui/53006/index.html>). If preferred, individuals may call the USOPC Integrity Hotline at 1-877-404-9935 to report their concern over the phone.

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