



UNITED STATES
OLYMPIC & PARALYMPIC
COMMITTEE
1 Olympic Plaza
Colorado Springs, CO 80909

Holly R. Shick
Chief Ethics & Compliance Officer

April 21, 2021

BY EMAIL

Lucinda McRoberts
Chief Administrative Officer and General Counsel
USA Swimming

Re: Athlete Representation Rule

Dear Ms. McRoberts,

I understand that your membership has questions about the athlete representation requirement that all National Governing Bodies (NGBs) must comply with. I am writing to confirm that the amendments to the United States Olympic and Paralympic Committee (USOPC) Bylaws, building on the Empowering Olympic and Paralympic Athletes Act, which require that NGBs have athlete representation on committees and other decision-making bodies, apply to the USA Swimming. The athlete representation requirement applies to any Board, Committee, or other body that has oversight over “Nominating and Governance, including Bylaws amendments.”¹ You have explained that USA Swimming’s House of Delegates is empowered to change USA Swimming’s bylaws and thus, the 1/3 athlete representation rule applies. Given that your House of Delegates is an “extraordinarily large legislative body,” the 1/3 athlete representation requirement may be achieved through weighting of votes.²

As Dr. David Patterson, our Associate Director for NGB Services, has explained, Congress has delegated to the USOPC the authority to define athlete representation.³ Given that authority, the USOPC, the National Governing Bodies Council (NGBC), and the Athletes’ Advisory Council (AAC) approved guidelines in Section 8.5 that defined athlete representatives as 10-year and 10-year plus athletes, thereby complying with the Act’s athlete representation requirements. It is also important to underscore that all NGBs must comply with the athlete representation requirement by December 31, 2021⁴ unless the USOPC grants an exception.

The process to request an exception must first be approved by USA Swimming’s AAC, which would then submit the request to a working group that includes a USA Swimming AAC representative, and one

¹ USOPC Bylaws, § 8.5.1(d)(vii).

² *Id.* at § 8.5.3(c)(i).

³ See 36 U.S.C. § 220522(13).

⁴ See USOPC Bylaws § 8.4.4 (noting that the athlete representation requirements and NGB certification requirements are fully binding on NGBs in 2021). The USOPC has also told NGBs on multiple occasions that NGBs must comply with the amendments to the Ted Stevens Olympic and Amateur Sports Act and the USOPC’s Bylaws by December 31, 2021.



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representative each from USOPC AAC and NGBC leadership.⁵ It is important to note that this working group will not allow for a delay in implementing the athlete representation rule if there is evidence that USA Swimming can comply by the December 31, 2021 deadline.

We appreciate your efforts to ensure your members' voices are heard while also ensuring USA Swimming is in full compliance with the Ted Stevens Olympic and Amateur Sports Act and the USOPC's Bylaws.

Sincerely,

Holly R. Shick
Chief Ethics & Compliance Officer

cc: Chris McCleary, General Counsel, USOPC
Tim Hinchey, President and Chief Executive Officer, USA Swimming
Rick Adams, Chief of Sport Performance and NGB Services, USOPC
David Patterson, Associate Director, NGB Services, USOPC

⁵ See *id.* §§ 8.5.1(f), 8.5.3(c)(i), 8.5.4(d)(i).