

October 16, 2023

VIA EMAIL

Re: USOPC Review and Assessment of USSA – Community Report

Dear US Sailing Community Member:

After receiving reports from across the elite athlete community of fears of retaliation for reporting concerns to the US Sailing Association (“USSA”) or the United States Olympic & Paralympic Committee (“USOPC”), the USOPC conducted a review and assessment of USSA. The USOPC initiated the investigation, with USSA’s support, to determine whether USSA’s Olympic Operations (*i.e.*, its Olympic program) support and promote a culture free from retaliation within the USSA elite athlete community and related activities, and, where deficiencies were identified, to determine what reforms are necessary to create a culture within USSA in which all members may have a successful participation experience.

This summary is prepared for the USSA community and contains a summary of the USOPC’s findings and corresponding recommendations. Specifically, the USOPC found multiple instances of attempted retaliation or actual retaliation by members of USSA against athletes for raising concerns regarding staff and the Olympic Operations program and against an Athlete Representative based on their perception that the Athlete Representative was responsible for the former Executive Director of US Olympic Sailing’s departure. The USOPC also found that the USSA members retaliated in some instances based on their lack of understanding of the role of athlete voice and due to the absence of a formal process to collect and document concerns that fall outside USSA’s Grievance procedures, which hindered USSA’s ability to sufficiently protect the Athlete Representatives. Finally, the USOPC did not find evidence to support allegations that the Olympic Operations staff favored some athletes over others based on the athletes’ preferred method of training. Instead, the USOPC found that there was a lack of clarity surrounding the allocation of athlete resources, in the absence of which some athletes perceived the Olympic Operations staff as weaponizing the resource allocation process to favor certain athletes. A confidential report, containing a more detailed accounting of our investigation findings, has been provided to USSA.

ASSIGNMENT

In September 2022, the USOPC was made aware of concerns regarding the Olympic Operations staff’s support for the role of USSA’s Athlete Representatives in voicing athlete concerns and participating in USSA’s governance. As a result, the USOPC worked with USSA to support and protect athletes’ involvement in organizational decision-making. From that



point until the end of Q1 2023, USSA’s leadership maintained consistent communication with the USOPC Compliance team regarding continued concerns. In early 2023, the USOPC learned of additional concerns regarding alleged retaliation against athletes and public disparagement of USSA in response to the resignation of the former Executive Director of US Olympic Sailing that appeared to result in, among other things, USSA and specific athletes losing donor funding. Given these concerns, at USSA’s request, the USOPC initiated an independent review and assessment to identify whether USSA’s Olympic Operations support a culture in which athletes are empowered to share concerns and are protected from retaliation for doing so. To the extent the USOPC found retaliatory conduct, the USOPC aimed to identify the root causes and potential solutions.

PROCESS OF REVIEW AND ASSESSMENT

On March 28, 2023, the USOPC informed USSA’s Board President, Chief Executive Officer, and USOPC Athlete Advisory Council (“AAC”) Representatives of the scope and purpose of the investigation. On April 10, 2023, the USOPC notified current National Team athletes and select community members of the USOPC’s investigation and invited them to provide their perspective on the alleged issues. Shortly thereafter the USOPC began its investigation.

During its investigation, the USOPC interviewed 29 individuals, including current and former athletes, current and former USSA and Foundation Board members, current and former coaches, and staff, and USSA community members. To ensure proper representation of viewpoints, in addition to interviewing those who requested to speak with the USOPC, the USOPC randomly selected and solicited participation across the interview groups. Among the latter group, eight current and former athletes either declined to be interviewed or did not respond to the USOPC’s request for an interview.

To facilitate an open and honest discussion without fear of retaliation, the USOPC informed each interviewee that he or she would not be identified by name to USSA and that any statements to the USOPC would not be attributed to specific individuals in any written report. The USOPC made an exception for staff members deemed not to have fully cooperated with the investigation.

In making the below identified findings and corresponding recommendations, the USOPC accounted for volunteer bias (*i.e.*, the USOPC considered whether an interviewee may have a preconception, whether positive or negative, about one or more of the topics of review) and ensured any findings were supported by available documentary evidence and/or corroborated by multiple sources.

The following chart provides a breakdown of the individuals interviewed:



Group	Number	Details
Athletes	11	Current and former male and female athletes from the National Team and Olympic Development Program.
USSA Board & Foundation Board Members	6	This includes current and former USSA and Foundation Board Members but does not include Athlete Representatives.
USSA Coaching Staff	6	This includes current and former coaches of USSA.
USSA Non-Coaching Staff	4	This includes current and former USSA staff.
Background Interviews	2	This includes individuals who are familiar with USSA.

In addition to interviews, the USOPC reviewed materials provided by witnesses, including emails, text messages, athlete agreements, recorded video meetings, and Board meeting minutes and materials.

To determine whether USSA implemented and employed appropriate procedures to collect and address athlete and other concerns and to ensure those who raise concerns may do so without fear of retaliation, the USOPC evaluated USSA’s practices pursuant to the requirements in the Ted Stevens Olympic & Amateur Sport Act¹ (“the Act”); the USOPC Bylaws²; USSA’s Bylaws³; and the USOPC’s and USSA’s Codes of Conduct⁴ and Whistleblower Policies and Procedures.⁵

In addition, as the investigation progressed, several athletes raised concerns about perceived favoritism and retaliation in the manner in which USSA Olympic Operations staff allocated

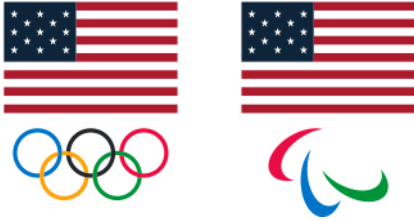
¹ 36 U.S.C. §220501 *et seq.*

² USOPC Bylaws, effective April 1, 2023.

³ USSA: Bylaws (Amended May 2023).

⁴ [USOPC Code of Conduct Policy](#), March 2021, and [US Sailing Association Statement of Ethics and Code of Conduct](#).

⁵ [USOPC Speak Up Policy](#), June 2021, and [USSA Whistleblower and Anti-Retaliation Policy](#).



athlete resources, including coaching, access to training camps, and social media promotion. Accordingly, the USOPC evaluated these concerns and provides its findings below.

SUMMARY OF FINDINGS

I. Retaliation

The Act prohibits retaliation, defined as “any adverse or discriminatory action, or the threat of an adverse or discriminatory action”⁶ against a “protected individual,” including athletes, coaches, and administrators affiliated with a national governing body,⁷ for raising concerns regarding physical, sexual, and emotional abuse.⁸ Under the Act, adverse action includes behavior such as “removal from a training facility, reduced coaching or training, reduced meals or housing, and removal from competition,”⁹ but more generally refers to any negative action taken against an individual.

The USOPC Speak-Up Policy further extends anti-retaliation protections to members of the Olympic and Paralympic community who raise any ethical, policy, or legal concerns in good faith.¹⁰ Under the USOPC’s policy, “no USOPC or NGB staff, Board/Committee member, or volunteer may threaten, harass, discriminate against, or take any negative employment or related action” against an individual for raising such concerns or for participating in an investigation of such concerns.¹¹ Similarly, USSA’s Whistleblower Policy bars “harassment, intimidation, adverse employment or livelihood consequences, or any other form of retaliation” against, among others, USSA athletes for making a good faith report of violations of the Act, USOPC bylaws and policies, and USSA Bylaws, policies, and procedures or for “participating in any investigation by USSA or the USOPC.”¹²

Moreover, USSA’s Code of Conduct requires that affiliated individuals, including USSA’s Board of Directors, employees, and members,¹³ “maintain high standards of moral and ethical conduct, which includes self-control and responsible behavior,” and “refrain from any material or intentional . . . conduct . . . which is detrimental to the image or reputation of US Sailing.”¹⁴

⁶ 36 U.S.C. §220501(b)(11).

⁷ *Id.* at §220501(b)(10).

⁸ *Id.* at §220501(b)(11).

⁹ *Id.*

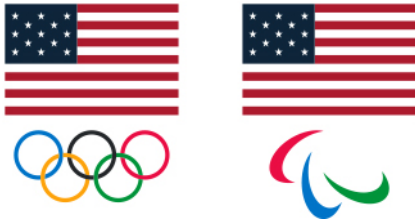
¹⁰ USOPC Speak Up Policy, *supra* note 5.

¹¹ *Id.*

¹² USSA Whistleblower Policy, *supra* note 5.

¹³ USSA Code of Conduct, Section 2(A)(1)(i, ii, and iv), *supra* note 4.

¹⁴ *Id.* at Section 7(v and x).



A. The USOPC Found Evidence of Multiple Instances of Attempted or Actual Retaliation by Two USSA Members Against Athletes for Raising Concerns About Staff and the Olympic Operations Program.

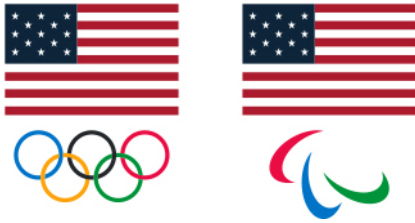
Applying these standards, the USOPC found evidence that, after their tenure with USSA, the former Executive Director of US Olympic Sailing and former Chair of the US Sailing Foundation Board engaged in retaliatory conduct against the Athlete Representative and that, during his employment, the former Executive Director made additional attempts to retaliate against specific USSA athletes in response to those athletes' raising concerns about the staff and the USSA Olympic Operations program, which the former Executive Director oversaw. Moreover, the investigation revealed that this retaliatory conduct contributed to a culture within the Olympic Operations program, which was under the former Executive Director's oversight, in which athletes feared retaliation for raising concerns. This retaliatory conduct also likely impacted the Sailing community more broadly following the former Executive Director's departure, as these fears escalated among athletes based on their observations of the experience of athletes who raised concerns about the Olympic Operations staff while the former Executive Director was still employed and overseeing Olympic Operations.

In addition, the USOPC found evidence that the former Executive Director and former Chair of the US Sailing Foundation Board publicly disparaged USSA and undermined USSA's position with donors by attempting to divert donor money to a new venture with misleading representations that the new venture would be taking the place of USSA in overseeing Olympic Sailing. Consistent with its standard procedures, the USOPC referred the latter conduct to USSA for assessment under its Code of Conduct.

B. Some Retaliation was Carried Out Based on a Lack of Understanding about the Role of Athlete Voice and an Absence of Formalized Reporting Processes for Concerns about Staff that Fall Outside USSA's Grievance Procedures.¹⁵

As part of its retaliation findings, the USOPC found evidence that, after the former Executive Director's departure in early 2023, he and the former Foundation Board Chair engaged in retaliatory conduct, as defined by the USOPC Speak Up Policy and USSA Whistleblower

¹⁵ Formal grievance procedures satisfy the Act's requirement that NGBs "provide procedures for the prompt and equitable resolution of grievances of its members." 36 U.S.C. §220522(14). However, the grievance procedures referenced in the Act are typically reserved for more formal allegations of misconduct or policy violations and require a more formal review process. Athletes and other community members often have concerns that do not meet the threshold for pursuing the grievance process, but still raise concerns to be addressed by NGBs. Here, the USOPC determined that the concerns raised relating to USSA staff that preceded the retaliatory conduct most appropriately fall within this latter category.



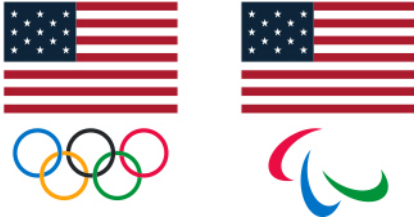
Policy,¹⁶ by directing donor and/or community ire toward one of USSA's Athlete Representatives based on the athlete's fulfillment of designated duties. These duties included, at the direction of the USSA Board and in conjunction with former athletes on the USSA Board, conducting an athlete feedback survey regarding the Olympic Operations staff (including the former Executive Director) to help inform the Board's evaluation of whether to change the former Executive Director's role. Ultimately, the USSA Board decided to change the former Executive Director's role, and, in response, the former Executive Director resigned. The investigation revealed, however, that the athlete feedback survey was just one of several factors leading to the Board's decision.

The USOPC found that the retaliatory conduct carried out against the Athlete Representative for doing nothing more than their designated role resulted in the loss of donor funds and ostracization from others in the Sailing Community. Beyond the impact to the Athlete Representative, the evidence showed that the retaliatory conduct impacted USSA athletes more broadly, as a few athletes reported hostile interactions or observing hostile interactions between their teammates and former USSA staff who resigned in solidarity with the former Executive Director based on the former staff's perception that athlete concerns were the sole cause of the former Executive Director's resignation.

In addition, the evidence showed that the Athlete Representative became the face of the athlete's concerns about the former Executive Director because there was not an otherwise defined reporting process for those concerns. Athletes interviewed in the investigation consistently reported that there was no clear procedure for reporting concerns about management outside the formal grievance process. In the absence of this, USSA's Board relied heavily on its Athlete Representatives to gather and report athlete concerns about staff. In this instance, the Board's decision to task the athlete Board members with conducting an informal athlete survey required the Athlete Representatives to report staff concerns in a forum that included close associates of the very staff about which they were reporting.

The USOPC emphasizes that athlete voice and participation in NGB governance is a fundamental principle within the U.S. Olympic and Paralympic Movement, and, indeed, is

¹⁶ The former Executive Director and the former Foundation Board Chair are no longer employed by, or serve in a governance role with, USSA. However, to the extent they are still members of USSA, they therefore, are still subject to the requirements articulated in the USOPC's and USSA's bylaws, policies, and procedures. *See* US Sailing Association Statement of Ethics and Code of Conduct, 2(B)(9). Moreover, the USOPC identifies the above-described retaliatory conduct not only to identify potential violations by specific individuals but also to illustrate the circumstances from which the USOPC has identified opportunities for USSA to better protect against such conduct in the future.



mandated by federal law and the USOPC Bylaws.¹⁷ For example, every NGB Board is required to have athlete members, as USSA did and does, and many of those athletes directors still compete.¹⁸ The investigation revealed that the former Executive Director and former Foundation Board Chair never fully understood and/or accepted this principle and requirement. With that lack of understanding and in the absence of other reporting mechanisms, USSA's specific reliance on the Athlete Representatives to gather and share concerns about staff members and program operations inadvertently exposed the Athlete Representatives to retaliation in two ways. First, it made the Athlete Representatives the face of athlete concerns about staff to the former Executive Director and former Foundation Board Chair. In this instance, it created a particularly difficult situation for one of the Athlete Representatives who was a currently competing athlete and had separate disagreements with programmatic decisions. Second, the lack of understanding among the athlete population about reporting procedures and the Athlete Representatives' roles allowed rumors about their roles in the former Executive Director's departure to spread unchecked. These issues were only compounded by USSA's understandable reluctance to communicate publicly about the personnel departures and to respond proactively to the substantial number of rumors swirling amongst the USSA community that an athlete was to blame. Importantly, the USOPC's investigation revealed that the rumors about the Athlete Representative's role in the former Executive Director's departure were untrue.

The USOPC emphasizes that, through its review, the remaining USSA leadership's commitment to protecting athlete voice and promoting a culture free of fear of retaliation was clear. The USOPC identified areas, however, in which USSA can improve its procedures for handling all reported concerns and communication to athletes and staff to better protect athletes and other community members from similar risks of actual and perceived retaliatory conduct going forward. The USOPC has every confidence that USSA has the dedication and capability to make these improvements and prevent similar situations in the future.

II. Favoritism

During the investigation, athletes raised concerns about potential favoritism by members of the current and former Olympic Operations staff, including coaches, in the allocation of athlete resources and social media coverage. Since favoritism toward one athlete can

¹⁷ 36 U.S.C. §220522(13)(A) (requiring that NGB "board of directors and other...governing boards have established criteria and election procedures [that include] individuals who (i) are elected by amateur athletes; and (ii) are actively engaged in amateur athletic competition or have represented the United States in international amateur athlete competition, in the sport...."). See also USOPC Bylaws, Section 8.5 and NGB Compliance Standards, Section A.1.

¹⁸ *Id.*



sometimes result from retaliation against another or vice versa, the USOPC reviewed the allegations to determine whether USSA gave undue preferential treatment to certain athletes for reasons unrelated to merit.

Specifically, some athletes alleged that some members of the Olympic Operations staff favored athletes who followed the squad training approach, a training methodology implemented by the former Executive Director. According to these athletes, those who did not want to, or felt it was not in their best interest to, participate in the squad training approach were not provided the same or similar funding for coaches, coach access to USSA training camps, coach boats at competition, or recognition on social media.

After review, the evidence showed that in allocating athlete resources, specifically funding for personal coaches, USSA followed the Athlete Agreements, which articulate the allocation of athlete resources. Where the Athlete Agreement was silent, the Olympic Operations staff demonstrated that, while not formally documented, a procedure was established regarding coach access to USSA training camps and coach boats at competitions. Similarly, while not formally documented, the evidence showed that USSA's communications and Olympic Operations staff, under the former Executive Director, developed and followed a communications plan for recognizing athletes on USSA social media sites under which athletes participating in the squad training approach would be prioritized. In the USOPC's view, this approach to social media coverage is a legitimate programmatic decision that the USOPC will not second-guess. Nevertheless, because some of the guidelines the Olympic Operations staff implemented in allocating resources and social media coverage were not made clear to athletes, it fed a perception among several athletes that staff engaged in undue favoritism by weaponizing the allocation process when the guidelines were employed.

CONCLUSIONS AND RECOMMENDATIONS

While the USOPC found some impediments to USSA's building of a strong speak-up culture, it did not find evidence that USSA is in violation of any of its obligations under the Ted Stevens Act or the USOPC's Bylaws and related policies. Where the USOPC found that USSA could implement more robust protections for athletes and staff in reporting concerns and better communicate available resources, however, the USOPC identified recommendations to assist USSA with the creation and maintenance of a culture that effectively supports and avoids similar risk to athletes in the future. The USOPC has shared these recommendations with USSA leadership and defers to USSA leadership in whether and how to adopt them.

It is apparent that, although USSA experienced significant challenges in recent years, it is committed to fostering an environment of integrity that supports and appropriately includes athletes' voice in organizational decision-making and promotes athlete well-being and excellence. The USOPC believes USSA is ready and capable of doing the important work to



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continue to improve the organization and to rebuild trust with its athletes and community members. And, as always, the USOPC stands ready to assist in any way it can.