



Border Swimming, Inc.

Administrative Review Board Policy Manual

Introduction

The Border Swimming, Inc (BD) Administrative Review Board (ARB) was established to provide a fair, impartial, and swift resolution of administrative disputes within BD. This manual outlines the policies and procedures governing the ARB to ensure transparency, consistency, and fairness in handling all matters within its jurisdiction.

Section 1: Establishment and Organization

1.1 Establishment

The ARB is established as an independent and impartial body to resolve administrative disputes that do not involve Code of Conduct violations or sanction decision appeals (BD Bylaws Article 13.1).

1.2 Membership

- The ARB shall have at least five (5) regular members, including at least two (2) athlete representatives to constitute at least 40% of the voting membership (BD Bylaws Article 13.2.1).
- The BD HOD shall every two years elect five (5) regular and alternate members of the ARB, at least two (2) of which must be Athlete Representatives. It shall be a two-year term. Members must be individual members of BD and USA Swimming. Board of Directors voting members are not ineligible to serve on the ARB (BD Bylaws Article 13.2.3).
- The Chair of the ARB, who must be a regular member, is elected biennially by a majority vote of the regular ARB members. The Chair appoints a Vice-Chair and a Secretary biennially (BD Bylaws Article 13.2.4).
- All members of the ARB will annually sign a Conflict-of-Interest form to be retained by the BD ARB and made available to BD Board.
- The BD ARB must consist of representatives from different current BD Swimming Clubs.

1.3 Duties of Members

- Attend 80% of ARB meetings and hearings as assigned.
- Maintain impartiality and report any potential conflicts of interest.
- Be knowledgeable about the BD Bylaws, BD Board of Directors Manual, BD Rules Regulations, Policies, and Procedures Manual, USA Swimming Operating Policy Manual, and USA Swimming Rules and Regulations.
- Ensure confidentiality of all proceedings.

Section 2: Powers and Duties

2.1 Administrative Powers

The ARB has the power and duty to:

- Administer and conduct its affairs and achieve its purposes.
- Establish policies, procedures, and guidelines.
- Elect the Chair.
- Call regular or special meetings.
- Retain necessary personnel and agents.
- Take actions appropriate, necessary, or helpful in the administration and conduct of its affairs (BD Bylaws Article 13.3.1).

2.2 Rule-Making Powers

The ARB has the authority to promulgate reasonable rules and procedures consistent with LSC corporate laws for matters within its jurisdiction (BD Bylaws Article 13.3.2).

2.3 Decision-Making Authority

Decisions require a majority vote of the ARB members present. The views of any dissenters shall be included in the record if requested (BD Bylaws Article 13.3.3).

Section 3: Procedures

3.1 Meetings

- The ARB shall meet as necessary for administrative purposes, to elect the Chair, adopt rules and procedures, and conduct other necessary business (BD Bylaws Article 13.2.5).
- Meetings may be conducted via telecommunication, ensuring all participants can hear each other (BD Bylaws Article 13.2.6).
- A quorum for administrative meetings is at least 50% regular members (BD Bylaws Article 13.2.7).

3.2 Hearing Procedures

- Complaints should be filed within 90 calendar days of the incident in question. The ARB need not exercise its jurisdiction with respect to a complaint the subject matter of which occurred, or concerns or is founded on events which occurred more than 90 calendar days prior to the date the complaint is received. The ARB Chair will determine whether the complaint is eligible for investigation and if it is determined that it is, select a panel from among the regular members. The panel must be comprised of a minimum of three (3) members such that athlete members constitute at least 33.3%. (BD Bylaws Article 13.3.4).
- **NOTE:** Given that the BD ARB and this Policy Manual were established after the creation of the BD Bylaws, the ARB will consider the evaluation of administrative dispute cases that occurred up to 180 calendar days prior to the enactment of this document (March 12, 2025). However, to be eligible for consideration, administrative dispute cases must provide evidence of filing a formal complaint with a USA Swimming entity within 90 calendar days of the incident in question. The exception in this paragraph shall expire after 90 calendar days of the enactment date of this Policy Manual.
- The ARB board shall determine the eligibility of a complaint within 14 calendar days from the date of filing.
- BD ARB is precluded from hearing any complaint that falls within the original and exclusive jurisdiction of the National Board of Review as enumerated in Policy 26.0 (National Board of Review) of the USA Swimming Operating Policy Manual. BD ARB is precluded from hearing any complaint that falls with the jurisdiction of the Zone Sanction Appeal Panel (ZSAP) as set forth in USA Swimming Rules and Regulations Section 202.3. Any complaint which does not fall within the parameters of the previous two exclusions may be heard by the BD ARB.
- The ARB board shall schedule a hearing for cases determined eligible within 14 calendar days from the date of eligibility determination.
- Hearings may be conducted in person or via telecommunication, ensuring all participants can hear each other, communicate and have input. (BD Bylaws Article 13.2.6).

- All parties will be given a fair opportunity to present their case, including the submission of evidence and witness testimony.

3.3 Timeliness of Petition

The BD ARB may decline to exercise its jurisdiction for complaints concerning events that occurred more than 90 calendar days prior to the filing date. This decision can be made by the Chair and may be appealed to the National Board of Review (BD Bylaws Article 13.3.4).

3.4 Decision-Making Process

- Decisions require a majority vote of the BD ARB panel members.
- The BD ARB shall issue a written decision within 30 calendar days of the hearing, detailing the findings, conclusions, and any penalties imposed.
- This decision by the BD ARB majority may be appealed to the National Board of Review in accordance with the National Board of Review procedures, pursuant to Policy 26.0 of the USA Swimming Operating Policy Manual. (BD Bylaws Article 13.3.4).

Section 4: Penalties and Sanctions

4.1 Types of Penalties

The ARB may impose the following penalties, subject to the nature and severity of the offense:

- **Letter of Reprimand:** A formal warning issued to the offending party.
- **Monetary Penalties:** any fines or assessments established by the BD Board of Directors
- **Revocation of Privileges:** Temporary revocation of specific privileges within BD.

4.2 Limitations on Penalties

- Monetary penalties should be reasonable and proportionate to the offense.
- The ARB should consider the impact of penalties on the individual's ability to participate in swimming activities.

Section 5: Rights and Responsibilities

5.1 Member Responsibilities

- ARB members must maintain impartiality and independence.
- Members must be familiar with the BD Bylaws, BD Board of Directors Manual, BD Rules Regulations, Policies, and Procedures Manual, USA Swimming Operating Policy Manual and USA Swimming Rules and Regulations.

5.2 Rights of Parties

- Both complainants and respondents have the right to a fair hearing.
- Parties have the right to present evidence, call witnesses, and be represented by an advisor or legal counsel.

- Parties have the right to receive a written decision detailing the ARB’s findings and conclusions.
- **Anti-Retaliation Statement:** No BD Swimming, Inc. board members, officers, employees, members, athletes, committee members, task force members, hearing panel members, volunteers, good faith reporters, parents or other reasonable parties (e.g., witnesses, victims, etc.) shall suffer harassment, intimidation, adverse employment or livelihood consequences, or any other form of retaliation (“Retaliation”) for (i) making a good faith report of a violation to BD-ARB or (ii) participating in an investigation by BD-ARB or an inquiry or investigation by any court, law enforcement, or other governmental or administrative body. “Retaliation” also includes retaliation as described in Article 307 of the USA Swimming Rulebook and the definition of retaliation included in Section 220501(b)(11) of the Ted Stevens Olympic and Amateur Sports Act (the “Act”).

Additionally, no employee, contractor, agent, volunteer, or Border Swimming itself shall take or threaten to take any action against an athlete as a reprisal for disclosing information to or seeking assistance from the Office of the Athlete Ombuds as outlined in Section 220509(b)(5) of the Act.

5.3 Resignations and Vacancies

- ARB members may resign by submitting a written resignation to the Chair, General Chair, or Board of Directors, specifying an effective date (BD Bylaws Article 13.2.8).
- Vacancies are filled by appointment from the ARB Chair with the advice and consent of the Board of Directors (BD Bylaws Article 13.2.10).

Section 6: Amendments

This manual may be amended by a two-thirds vote of the ARB members, provided the amendments are consistent with the BD Bylaws and USA Swimming Rules and Regulations.

6.1 Adoption and Review

- This manual is adopted upon approval by the ARB and remains in effect until amended or repealed.
- It shall be reviewed biennially to ensure compliance with current BD and USA Swimming standards.

Section 7: Miscellaneous

7.1 Confidentiality

All matters before the ARB are confidential, and members must not disclose information outside the hearing process.

7.2 Conflict of Interest

ARB members must recuse themselves from any hearing in which they have a personal or financial interest.

7.3 Documentation

- All hearings and decisions must be documented and retained according to the BD record retention policy.
- Written decisions should be distributed to all parties involved and relevant BD officials.

7.4 Training

- ARB members should receive training on BD Bylaws, USA Swimming Operating Policy Manual, USA Swimming Rules and Regulations, and hearing procedures to ensure competence in their roles.
- Ongoing education (at least annually) should be provided to keep members updated on changes in policies and procedures.

References:

- BD Bylaws (Article 13: Administrative Review Board)
- BD Board of Directors Manual
- BD Rules Regulations, Policies, and Procedures Manual
- USA Swimming Operating Policy Manual
- USA Swimming Rules and Regulations

This manual should be periodically reviewed and updated, with a frequency of at least annually, to reflect any changes in the BD Bylaws, BD Board of Directors Manual, BD Rules Regulations, Policies, and Procedures Manual, USA Swimming Operating Policy Manual or USA Swimming Rules and Regulations.