

UNITED STATES OLYMPIC COMMITTEE (USOC) SECTION 10
COMPLAINT OF NON-COMPLIANCE AGAINST
UNITED STATES OF AMERICA WRESTLING ASSOCIATION, INC.
(USA WRESTLING)

INTRODUCTION

This is a complaint (the “Complaint”) by Sara McMann, Patricia Miranda and Randi Miller (hereinafter the “Claimants” or “Athletes”) against USA Wrestling for its failure and refusal to comply with certain membership requirements for NGBs, as mandated by the Ted Stevens Olympic and Amateur Sports Act (TSOASA), Title 36 U.S.C. Sections 220501, et seq. and Section 8 of the USOC Bylaws.

THE CLAIMANTS:

Sara McMann
{Address Block}

Patricia Miranda
{Address Block}

Randi Miller
{Address Block}

THE RESPONDANT:

USA Wrestling, Inc.
Attn: Richard Bender, Executive Director
6155 Lehman Drive
Colorado Springs, CO 80918

JURISDICTIONAL BASIS

1. Jurisdiction lies for the filing of this Complaint pursuant to Section 220527(a)(1) of the TSOASA and Section 10.1 of USOC Bylaws, in that Sara McMann, Patricia Miranda, and Randi Miller are each individual members of USA Wrestling and they seek to compel USA Wrestling to comply with certain subsections, specified herein, of Sections 220522 and 220524 of the TSOASA.

NGB EXHAUSTION AND UNNECESSARY DELAY

2. Claimants filed a grievance alleging noncompliance with the TSOASA with USA Wrestling Executive Director Bender on July 15, 2009.

3. Since the July 15 filing date, USA Wrestling has only engaged Claimants toward “prompt and equitable resolution” of the grievance with one (1) conference call under the “Informal” proceedings of the NGB President as laid out in USAW Bylaws. This call occurred on August 11, 2009.

4. All other communication that occurred, with the exception of the one informal conference call, between Claimants and USA Wrestling has been marked by delay and friction as opposed to conciliatory, productive movement toward a prompt and equitable resolution.

5. Claimants sent three (3) formal, written requests to promptly proceed with either informal talks or with mediation with USA Wrestling. The dates of those requests were: September 16, 2009; September 23, 2009; and October 2, 2009.

6. USA Wrestling denied all three requests from Claimants to move forward with the resolution process through informal talks or with mediation.

7. On September 17, 2009, USA Wrestling, along with its denial of Claimants’ request to promptly move forward, communicated that it would instead delay resolution for 60-90 days to conduct a review of the grievance with an advisory “independent panel.”

8. In their September 23rd communication, along with their second request for mediation, Claimants objected to the imposed 60-90 day delay in order to accommodate the panel that, by definition was neither impartial nor independent. Claimants noted that these factors made it highly unlikely that the protracted delay would advance the grievance toward resolution.

9. On September 24, 2009, USA Wrestling denied the Claimants’ second request for mediation and communicated that it would proceed, without further engagement with the Claimants, with its “independent” panel for the next 60-90 days.

10. Along with Claimant's third request for mediation, sent on October 2, 2009, Claimants indicated they intended to invoke their right to a NGB Board hearing if USA Wrestling did not proceed with "prompt and equitable" resolution.

11. Claimants did not receive a response from USA Wrestling to their October 2, 2009 communication prior to sending their next communication 14 days later.

12. On October 16, 2009, Claimants sent a formal, written request to be heard before the USA Wrestling Board of Directors under USA Wrestling Bylaw 13.4. In that communication, Claimants offered that the Board hearing could take place sometime within and up to seven (7) weeks in the future.

13. On October 16, 2009, USA Wrestling denied Claimants' request to promptly be heard by the USA Wrestling Board of Directors within the upcoming seven (7) weeks. This refusal was issued despite the fact that Claimants offered a Board hearing date as late as December 4th, which, if selected, would have given USA Wrestling over 75 days from the creation of its review panel for that panel to have conducted its investigation for USA Wrestling.

14. Since the grievance filing date, Claimants have observed and received multiple indications from different sources that USA Wrestling, including individuals directly related to the grievance and in positions of authority, is not working toward a "prompt and equitable" resolution to the grievance.

15. October 23, 2009, the date of this Section 10 Complaint filing with the USOC, represents the 100-day mark since the filing of the grievance; in short, USA Wrestling, by its actions, has shown that it is either unwilling or unable (or both) to process the July 15, 2009 grievance filed by the Claimants in a prompt and equitable manner.

16. Upon the above grounds, Claimants allege that exhaustion of available remedies has occurred at the NGB level and/or that further exhaustion efforts would result in unnecessary delay.

GROUNDS OF NONCOMPLIANCE

17. As further detailed below, USA Wrestling fails to comply with at least the following sections of the TSOASA:

§220524(6): Imposes a duty to “provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis”;

§220522(a)(8): Requires an NGB to “provide[] an equal opportunity to amateur athletes ... to participate in amateur athletic competition, without discrimination on the basis of ... sex ..., and with fair notice and opportunity for a hearing to any amateur athlete ... before declaring the individual ineligible to participate”;

§220522(a)(13): Requires an NGB to "provide[] procedures for the prompt and equitable resolution of grievances of its members";

§220522(a)(9): Requires an NGB, where there are separate male and female programs (as in USA Wrestling) to "provide[] for reasonable representation of both males and females on the board of directors or other governing board"; and

§220524(3): Requires an NGB to “keep amateur athletes informed of policy matters and reasonably reflect the views of the athletes in its policy decisions.”

EVIDENCE FOR BASIS OF NONCOMPLIANCE

Section 220524(6) of the TSOASA: Equitable Support and Encouragement

18. Section 220524(6) of the TSOASA provides that an NGB “*shall*” (emphasis supplied) “provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis.”

19. Evidence that USA Wrestling is not in compliance with §220524(6) of the TSOASA is established by the following:

- a) USA Wrestling enforces disciplinary sanctions unequally between its male athletes and female athletes;
- b) USA Wrestling imposes unequal requirements and burdens on its female athletes compared to its male athletes;
- c) USA Wrestling allocates fewer monies for international competitions for its female program relative to its male programs;
- d) USA Wrestling offers disparate, non-stipend, monetary incentives between its men’s and women’s programs;
- e) USA Wrestling’s current four-year High Performance Plans (HHP) puts forth unequal treatment of its male and female athletes by placing a greater burden on female athletes as well as an unjustifiably lower performance expectation;
- f) USA Wrestling allows its National coaching staff to exhibit inappropriate predatory behavior toward outside female athletes and outside female training institutions;
- g) USA Wrestling allows a higher tolerance for inappropriate, unprofessional, sub-standard coaching behavior on the part of the women’s coaching staff as compared to the men’s coaching staff;
- h) USA Wrestling provides unequal caliber coaches for its female athletes as compared to its male athletes; and
- i) USA Wrestling provides a disproportionately low number of funded coaching positions for its women’s program.

Section 220522(a)(8) of the TSOASA: Equal Opportunity to Participate

20. Section 220522(a)(8) of the TSOASA requires NGBs to “provide[] an equal opportunity to amateur athletes ... to participate in amateur athletic competition, without discrimination on the basis of ... sex ..., and with fair notice and opportunity for a hearing to any amateur athlete ... before declaring the individual ineligible to participate...”

21. Evidence that USA Wrestling is not in compliance with §220522(a)(8) of the TSOASA is established by the following:

- a) USA Wrestling unequally sanctions, and threatens to sanction, female athletes, as opposed to male athletes, with Team removal from protected events, thereby denying those athletes the equal opportunity to participate in those events;
- b) USA Wrestling unequally sanctions female athletes versus male athletes with the revocation of funding for amateur athletic competitions, thereby denying those athletes the equal opportunity to participate in those events;
- c) USA Wrestling imposes unequal requirements and burdens on its female athletes for US amateur representation; and
- d) USA Wrestling has failed to afford “fair notice and opportunity for a hearing” to an amateur athlete before declaring the athlete ineligible to participate in amateur athletic competition.

Section 220522(a)(13) of the TSOASA: Prompt and Equitable Resolution

22. Section 220522(a)(13) of the TSOASA requires an NGB to "provide[] procedures for the *prompt* and *equitable* resolution of grievances of its members." (Emphasis supplied)

23. Evidence that USA Wrestling is not in compliance with §220522(a)(13) of the TSOASA is established by the following:

- a) USA Wrestling’s grievance resolution procedure as set forth in the USA Wrestling Bylaws, as followed in the instant case with the Claimants, has shown that USA Wrestling is either unwilling or unable (or both) to proceed with the “prompt” resolution of grievances filed by its members; glaring shortcomings have been exposed in USA Wrestling’s resolution procedures;
- b) In that regard, and as shown by its correspondence with Claimants noted above (in the “Exhaustion of Remedies” section), USA Wrestling has engaged in a deliberate pattern of delay, intended to deny Claimants their right to a “prompt” resolution of their grievance;

c) Leadership personnel within USA Wrestling, though their actions, have indicated that it is not their intent to provide a prompt and equitable resolution to the concerns raised in the Athletes' grievance;

d) USA Wrestling's repeated refusal to engage in good-faith mediation, and its further insistence that it first proceed with and complete a so-called "independent" review of the Athletes' grievance for a protracted period of 60-90 days, before it will even consider a Hearing date, is further evidence of its failure and refusal to provide for a prompt resolution of the Athletes' grievance;

e) USA Wrestling, well past the breakdown of informal resolution procedures, denied Claimants' request to move to formal resolution procedures as provided for in USA Wrestling Bylaws, thereby denying prompt resolution under the TSOASA; and

f) Even if USA Wrestling schedules a Hearing, and such a Hearing proceeds, the lack of the TSOASA required "reasonable" female representation on USA Wrestling's Board of Directors will likely deny the all female Claimants an "equitable" resolution of their grievance, if and when it is ever scheduled to be heard by the Board.

Section §220522(a)(9) of the TSOASA: Female Representation on Governing Boards

24. Section 220522(a)(9) of the TSOASA requires NGBs, in sports where there are separate male and female programs, to "provide[] for reasonable representation of both males and females on the board of directors or other governing board."

25. Evidence that USA Wrestling is not in compliance with §220524(9) of the TSOASA is established by the following:

a) Of the 46 members of USA Wrestling's Board of Directors, less than 9% are female; and

b) Of the 13 members of the USA Wrestling Executive Committee, less than 8% are female.

c) As women comprise one-third of USA Wrestling programs, by any objective and fair standard, 9% and 8% female directors on USA Wrestling's Board of Directors and Executive Committee, respectively, does not meet the "reasonable [female] representation" requirement of the TSOASA.

Section 220524(3) of the TSOASA: Reasonably Reflect the Views of its Athletes

26. Section 220524(3) of the TSOASA imposes a duty on NGBs to “keep amateur athletes informed of policy matters and reasonably reflect the views of the athletes in its policy decisions.”

27. Evidence that USA Wrestling is not in compliance with §220524(3) of the Sports Act is established by the following:

a) USA Wrestling has been unresponsive to the views of female athletes, including its Olympic medal winning female athletes and elected female athlete representatives and does not reasonably reflect the views of its female athletes in the creation of, or the implementation of, its policy decisions governing its female athletes; and

b) This result is not surprising given the small number of female representatives on USA Wrestling’s Board of Directors and Executive Committee, where females are underrepresented and therefore are not given a forum to set forth their views in any meaningful way.

RELIEF SOUGHT

Wherefore, by reason of the foregoing, the Claimants respectfully request that the USOC, by its Hearing Panel or Board of Directors, grant the following relief as against USA Wrestling:

Gender Equity Committee

48. USA Wrestling shall create a permanent, internal oversight committee with the responsibility and authority to hold USA Wrestling's Executive Director accountable for ensuring that USA Wrestling's female athletes are provided equitable support and encouragement for participation and face no gender discrimination in the National program relative to the men's freestyle and Greco-Roman programs. USA Wrestling coaches and staff will be required to report all acts of official discipline/sanction for all athletes to the Executive Director and this oversight committee for evaluation. This USA Wrestling committee shall have the right and responsibility to review issues in funding, sanctions and programs for support and encouragement for participation that are alleged to be inequitable between the men's and women's programs. This committee is also to self-initiate these reviews, first immediately and then subsequently no less than once annually.

51. USA Wrestling shall publicize the creation of this new permanent, oversight committee to its members. In this informing publication, USA Wrestling will notify the community that all members of the organization are welcome to bring gender equality issues or concerns to the attention of this new oversight committee and will describe a simple method for doing so.

Equality Coaching Caliber Review

52. USA Wrestling shall be required to hire staff and coaches for its women's program equal in caliber to staff and coaches provided for its men's programs. This remedy will require providing substantially similar compensation packages in order to attract top caliber coaches for the Women's National Program. This will also require creating standards regarding previous coaching experience and the understanding of world-class competition so that, for example, only a coach that would be considered for the men's National Program will be considered to fill a coaching position in the women's National Program.

53. To meet this remedy, the current coaching staff for the Women's program shall necessarily be put under immediate review to ensure that these coaches meet the requirement of being equally talented, experienced, and compensated, as well as having exhibited a high level of on-the-job professional conduct in line with the Men's program. This review shall be conducted by no later than 31 December, 2009, and a thorough written private and public report of USA Wrestling's National women's team leadership will be generated.

54. National Team Coach Terry Steiner and Assistant National Team Assistant Coach Vladislav Izboinikov shall be suspended from further duties until such time that a comprehensive performance review is completed and an assessment made as to the caliber of these coaches relative to the men's coaches.

55. There shall be an immediate review, with participation of a representative chosen by the Claimants, of the salaries of the contact staff for female athletes (including the USOEC program) for discrepancies with the salaries provided for equivalent positions in the men's contact staff.

56. USA Wrestling's Executive Director's evaluations of all USA Wrestling staff for the years 2005 to 2009 shall be made available to the USA Wrestling Executive Committee (subject to a confidentiality agreement, if deemed appropriate), for their review, as required by USA Wrestling Bylaw Article IV, Section 4.7.

Compensation for Unjust Sanctions

57. USA Wrestling shall compensate its athletes for the imposition of past unjust sanctions. Any inappropriate sanctions that can be monetarily measured that have been taken against female wrestlers up to the time of the resolution of this Complaint are to be reimbursed to those wrestlers. For example, international tour funding that was withheld – or Team competitions that were denied – from female National Team members for not attending National Team camps while no similar sanction was applied against male National Team members will be reimbursed to the wronged female athletes, either in the form of a paid tour in the upcoming season or in monetary compensation equivalent to the value of the withheld tour/competition. The choice between a paid tour and its monetary equivalent is to be decided by the wronged athlete. Any other measurable monetary harm that has been applied to female athletes, but not their male counterparts, will be paid out to neutralize the harm of inequitable treatment.

Expense Reimbursement

58. USA Wrestling shall reimburse the Claimants for any expenses, including reasonable legal fees, incurred in bringing its July 15, 2009 Grievance, and this Complaint filed pursuant to Section 10 of the USOC Bylaw, to compel USA Wrestling to comply with its obligations under the TSOASA and USOC Bylaws.

Equal Freedoms and Responsibilities

59. That USA Wrestling be directed to redraft its women's Four-Year High Performance Plan to reflect the similar treatment and freedoms contemplated for male athletes in the men's HPP; the Olympic values of excellence and performance shall be held above specific control of athletes or of the training location of the athletes;

60. USA Wrestling's National Women's Program shall be limited to a maximum of one, two-week mandatory camp per annum for National Team Members held immediately prior to any Olympic Games, Regional Games, and World Championships event. In the years where a Regional Games coincides with a World Championship, or other combination of the above-mentioned events there of, two two-week camps are warranted. No other camp shall be mandatory; no sanction, either affirmative or by omission of resources, shall be levied against any athlete for non-attendance of a non-mandatory camp. The sanctions levied against female

athletes for non-attendance of a mandatory camp must be equivalent to the sanctions levied against male athletes.

Further Corrective Actions

61. USA Wrestling, more specifically, Rich Bender, Mitch Hull, Terry Steiner, and Vladislav Izboinikov, shall write a letter of apology addressed to the women's wrestling community, for their part in USA Wrestling's failure to comply with the TSOASA requirements and duties as to its female athletes. This letter, along with a formal statement that describes the TSOASA non-compliance claim and the resolution of said claim will be posted on themat.com and the USOC website.

62. After remedy reviews and resulting actions have been taken, USA Wrestling shall also issue an invitation to all female athletes, including those that have been disenfranchised, to support and otherwise participate in a revised USA Wrestling National Program. Additionally, there shall be a review of the credentials of the resident athletes at the Colorado Springs Olympic Training Center and of the prospective athletes applying for residency. Specifically, once the immediate reviews suggested in these remedies have been completed and any resulting actions taken, the spaces allocated for residency at the OTC will be approached anew and all athletes applying will be given equal consideration regardless of which athletes currently hold residency.

Equality in Development

64. To the extent that USA Wrestling provides support and encouragement for male high school and college wrestling participation, USA Wrestling shall be required to provide equitable support and encouragement for female wrestlers at these development stages.

65. A special panel shall be convened that will investigate the concerns of the Women's College Wrestling Association (WCWA) college members to address the concerns of college coaches relating to women's development. A full report will be issued and recommendations made for the improvement of relationships between USA Wrestling and all women's college programs in the U.S. not later than 1 March, 2010.

Reasonable Female Representation on the Board

66. USA Wrestling shall provide for the reasonable representation of females on its Board of Directors and other governing boards as required by Section 220522(a)(9) of the TSOASA.

Prompt and Equitable Resolution

67. USA Wrestling shall be directed to revise its Bylaws to assure compliance with the TSOASA's requirement that USA Wrestling provide for both the "prompt" and "equitable" resolution of grievances of its members.

Right to Expand or Edit Reserved

68. The Claimants herein, respectfully reserve the right to expand or modify these remedies at a later date, upon the receipt of new information made known during the course of resolution proceedings.

CERTIFICATION OF FACTS and SIGNATURES OF CLAIMANTS

By signing this complaint we hereby certify that we have read the aforesaid Complaint filed with the USOC pursuant to Section 10 of the USOC Bylaws, that we have personal knowledge of the facts set forth therein, or, when not based on personal knowledge, the facts alleged are true to the best of our knowledge and belief.

Signature of the Claimants:

Signed on this 23rd day of October, 2009

Sara McMann

Patricia Miranda

Randi Miller

PROOF OF SERVICE

I, *PATRICIA MIRANDA*, hereby certify that on the 23rd day of October, 2009, I caused the aforesaid Complaint to be served on the Respondent, USA Wrestling, by having a copy hand delivered to the Executive Director of USA Wrestling, or his representative, at his office in Colorado Springs, CO as set forth above, with a copy also hand-delivered this same day to the Legal Department of the United States Olympic Committee. I further certify that courtesy copies were also provided to the Chair of the USOC's Athletes' Advisory Council and the USOC Athlete Ombudsman.

Patricia Miranda

The requisite filing fee of \$250 is being provided to the USOC, together with the filing of this Complaint.

Note: Please direct all communications with respect to this Complaint to Patricia Miranda, who will coordinate responses, as appropriate, on behalf of all Claimants.

Patricia Miranda
{Address Block}
{Telephone Block}
{Email Block}