

**Calendar No. 567**

105th Congress }  
2d Session }

SENATE

{ REPORT  
{ 105-325

**OLYMPIC AND AMATEUR SPORTS ACT  
AMENDMENTS OF 1998**

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 2119



SEPTEMBER 10, 1998.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

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### OLYMPIC AND AMATEUR SPORTS ACT AMENDMENTS OF 1998

SEPTEMBER 10, 1998.—Ordered to be printed

Mr. MCCAIN, from the Committee on Commerce, Science, and  
Transportation, submitted the following

### REPORT

[To accompany S. 2119]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2119), “A Bill to amend the Amateur Sports Act to strengthen provisions protecting the right of athletes to compete, recognize the Paralympics and growth of disabled sports, improve the U.S. Olympic Committee’s ability to resolve certain disputes, and for other purposes”, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

#### PURPOSE OF THE BILL

The purpose of the legislation is to update the Amateur Sports Act of 1978 to reflect developments that have occurred over the past twenty years and to improve the Act in key areas.

#### BACKGROUND AND NEEDS

The purpose of the Olympic and Amateur Sports Act Amendments of 1998 is to update the Amateur Sports Act of 1978. The United States Olympic Committee (USOC) was originally incorporated in 1950 under the “Act to incorporate the United States Olympic Association.” In 1964, the name was changed to the United States Olympic Committee. In 1978, the 1950 Act was substantially modified by the Amateur Sports Act. The Act has not been modified since 1978.

The 1978 Act was based on recommendations of President Ford’s Commission on Olympic Sports, which had worked from 1975 until 1977 to determine how to correct factional disputes, between sports organizations, which were depriving many athletes of the oppor-

tunity to compete. Senator Stevens served on that Commission. When the Commission's report was delivered to Congress, the Chairman of the Commerce Committee, Warren Magnuson, asked Senator Stevens to head up the Commerce Committee's review of the report. Ultimately, that review led to the passage of the Amateur Sports Act of 1978.

Many believe the 1978 Act needs to be updated due to several significant changes which have occurred in Olympic and amateur sports in the past 20 years. Those changes include the following: (1) the schedule for the Olympics and Winter Olympics has been altered so that an Olympic event occurs every two years, instead of every four—significantly increasing the workload of the U.S. Olympic Committee; (2) sports have begun to allow professional athletes to compete in some Olympic events; (3) even sports still considered “amateur” have athletes with greater financial opportunities and professional responsibilities than were ever considered in 1978; and (4) the Paralympics—the Olympics for disabled amateur athletes—have grown significantly in size and prestige.

The legislation would leave in place the existing structure created by the 1978 Act. The bill would make modifications in discrete areas to address defined concerns.

The bill would make the following primary changes to the 1978 Act.

(1) The title of the underlying law would be changed to the “Olympic and Amateur Sports Act” to reflect the participation of professional as well as amateur athletes in the Olympic games.

(2) A number of measures would be added to strengthen the provisions which protect athletes' rights to compete.

(3) The ability of the USOC to resolve disputes—particularly disputes that arise close to the start of the Olympics, Paralympics, or Pan-American Games—would be improved. In addition, modifications are made to reduce the legal costs and administrative burdens of the USOC during dispute resolution.

(4) The legislation would fully incorporate the Paralympics into the Amateur Sports Act and update the existing provisions affecting disabled athletes.

(5) Improvements would be made to the notification requirements for when a National Governing Body (NGB) has been put on probation or is being challenged.

(6) The legislation would increase the reporting requirements of the USOC and the NGBs with respect to sports opportunities for women, minorities, and disabled individuals.

(7) The USOC would be required to report to Congress in five years with any additional changes that may be needed to the Act.

#### LEGISLATIVE HISTORY

The Commerce Committee held three hearings to assess the need for modifications to the 1978 Act. At the first two hearings (held on August 11, 1994 and October 18, 1995) witnesses identified where the Amateur Sports Act was showing signs of strain. At the third hearing, held on April 21, 1997 at the Olympic Training Center in Colorado Springs, discussion focused on solutions to the problems which had been identified in the earlier hearings.

On January 26, 1998, Senator Stevens held an informal working session in the Commerce Committee hearing room to discuss with interested parties possible amendments to the 1978 Act.

Senators Stevens and Campbell introduced S. 2119, the Olympic and Amateur Sports Act Amendments of 1998, on May 22, 1998. In open executive session on July 29, 1998, the Committee, by voice vote, ordered the bill reported with an amendment in the nature of a substitute.

#### ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 17, 1998.*

Hon. JOHN MCCAIN,  
*Chairman, Committee on Commerce, Science, and Transportation,  
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2119, Olympic and Amateur Sports Act Amendments of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Hadley (for federal costs); Pepper Santalucia (for the state and local impact); and Jean Wooster (for the private-sector impact).

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

##### *S. 2119—Olympic and Amateur Sports Act Amendments of 1998*

Summary: S. 2119 would amend the federal law incorporating the U.S. Olympic Committee (USOC). The bill would strengthen the ability of the USOC to resolve disputes with and among athletes. It also would provide the Paralympics and Pan-American Games with the same recognition and trademark protection as the Olympics. CBO estimates that S. 2119 could increase federal costs, but any such costs would be subject to appropriation and would not be significant. S. 2119 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

The bill contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that states would not incur any costs to comply with the mandate. S. 2119 would impose private-sector mandates, as defined by UMRA, on the United States Olympic Committee (USOC), a private-sector entity, and businesses that use the name Pan-American. CBO estimates that the total direct costs of the mandates would not exceed the annual threshold for private-sector mandates established in UMRA (\$100 million in 1996, adjusted for inflation).

Estimated cost to the Federal Government: S. 2119 would allow the USOC the option of having civil action brought against the USOC in a state court adjudicated in U.S. District Court. Although this provision could increase the number of cases in federal courts, CBO estimates that the additional costs would not be significant and would be subject to appropriation.

Pay-as-you-go considerations: None.

Estimated impact on State, local, and tribal governments: Section 10 of the bill would prohibit state courts from granting injunctive relief against the U.S. Olympic Committee when adjudicating certain lawsuits. This prohibition would be an intergovernmental mandate as defined in UMRA. However, because the prohibition would not require state courts to devote more resources to these cases, CBO estimates that states would not incur any new costs to comply with the mandate.

Estimated impact on the private sector: S. 2119 would impose private-sector mandates, as defined by UMRA, on the United States Olympic Committee and businesses that use the name Pan-American. CBO estimates that the total direct costs of the mandates would not exceed the annual threshold for private-sector mandates established in UMRA (\$100 million in 1996, adjusted for inflation).

This bill would impose several private-sector mandates on the USOC, with the most costly one requiring that the USOC hire an ombudsman for athletes. Other mandates include a report to the Congress on any further additional changes and increased reporting requirements on sports opportunities for women, minorities, and disabled individuals. According to a representative of the USOC, most of the mandates would impose minimal additional costs since those requirements are consistent with current USOC practice. USOC estimates that the cost to hire an ombudsman would be approximately \$100,000 a year.

S. 2119 would not allow the use of the name Pan-American for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition without the consent of the USOC. Based on a search of such names through the Internet and a discussion with the U.S. Patent and Trademark Office, CBO estimates that fewer than 1,000 businesses use the name Pan-American or a variant. According to a trademark attorney, the cost for a business to change its name would range from less than \$500 to \$20,000, with most businesses falling in the lower end of the range. Thus, CBO estimates that the total cost to businesses to comply with the private-sector mandate in the bill would be well below the statutory threshold established in UMRA.

Estimate prepared by: Federal Costs: Mark Hadley. Impact on State, Local, and Tribal Governments: Pepper Santalucia. Impact on the Private Sector: Jean Wooster.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

The bill, as reported, would update the Amateurs Sports Act of 1978 to reflect developments in Olympic Sports in the past 20

years. The legislation will have no effect on the number of individuals regulated or their personal privacy. The legislation should have no significant economic impact nor should it change existing paperwork requirements.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 provides that the bill may be referred to as the “Olympic and Amateur Sports Act Amendments of 1998”.

##### *Section 2. Olympic and Amateur Sports Act; amendment of act*

Section 2 changes the title of the underlying Act to the “Olympic and Amateur Sports Act.”

##### *Section 3. Definitions*

Section 3 defines the term “paralympic sports organization”.

##### *Section 4. Objects and purposes*

Section 4 provides for full recognition of the Paralympic games by the Act. The bill contains numerous other changes to achieve this recognition. In sum, these changes would give the USOC the same duties with respect to the Paralympic Games as it has with the Olympic Games. The USOC would “either directly or [by delegation to NGB]”: select athletes for U.S. teams, represent the United States in relations with the International Paralympic Committee, organize and finance U.S. teams, and provide equitable and fair dispute resolution procedures for disabled athletes. In addition, the USOC would be required to allow paralympic sports organizations to join the USOC and to use and protect the trademarks of Paralympics.

Section 4(3) would eliminate references in the bill to “handicapped individuals” and insert instead the term “amateur athletes with disabilities.” The use of the new words would update terminology and, more importantly, make clear that disabled athletes are “amateur athletes” under the Act’s existing definition, provided that they meet the eligibility standards of their NGB as required by the existing definition of “amateur athlete”.

##### *Section 5. Powers of corporation*

Paragraphs (1) through (4) make various changes to provide for the complete recognition of the Paralympics.

Paragraph (5) would provide that the USOC may elect to remove to Federal court civil actions brought against the USOC in State court if those actions relate solely to the USOC’s responsibilities under the Act.

##### *Section 6. Membership; representation*

Section 6(a) provides for the complete recognition of the Paralympics and paralympic sports organizations.

Section 6(b) of the bill would amend the Act to require an Athletes’ Advisory Council (AAC). Currently, the AAC exists but was created as part of the USOC constitution and bylaws and is not recognized in the Act.

Section 6(b) would also require that amateur athletes comprise at least 20 percent of the membership and voting power of the USOC board of directors and other USOC committees and entities. This, too, is presently only required under the USOC constitution and bylaws.

*Section 7. Use of Olympic, Paralympic, and Pan-American Symbols*

Section 7 would provide the USOC with the same trademark protection for the Paralympic Games and Pan-American Games, and the symbols and words associated with those games, as it presently has for the Olympics. In order to raise funds to carry out the Act, section 7 would also give the USOC the exclusive power to authorize the use of these names and symbols.

Paragraph (6) would explicitly permit the use of the word "Olympic" to "identify a business or goods or services \* \* \* where it is evident from the circumstances that the use of the word 'Olympic' refers to the geographical features or a region of the same name, and not a connection with the Corporation or any Olympic activity." It is intended that this provision will free businesses on the Olympic peninsula and other geographical locations that are designated by the term "Olympic" or any related term, such as "Olympia", from undue fear that their use of the word "Olympic" in association with their business will lead to legal action initiated by the USOC. It is intended that this provision will be interpreted in a manner that will not inhibit the ability of the USOC to license use of the word "Olympic" to sponsors.

*Section 8. Agent for service of process*

Section 8 would require the USOC to have a designated agent in the State of Colorado to receive service of process, rather than an agent in every state. Notice of service on that agent, including service mailed to the business address of the agent, is notice to or service on the USOC.

*Section 9. Reports*

Section 9 would require the USOC to submit a formal report to Congress and the President only once every four years instead of annually as is currently required. The new reporting cycle would conform more closely with the four-year budget cycle of the USOC to reduce administrative burdens. The scope of existing reporting requirements is expanded to include data on the participation of women, disabled individuals and racial and ethnic minorities, including a description of the steps that have been taken to encourage increased participation by these groups of people in amateur sports.

*Section 10. Resolution of disputes*

Section 10 would prevent a court from granting injunctive relief against the USOC in a dispute involving the participation of an athlete within 21 days of the beginning of the Olympics, the Paralympics, or the Pan-American Games if the USOC has provided the court with a sworn written statement that the USOC's constitution and bylaws cannot provide for the resolution of the dispute before the beginning of the games.



The provision is intended to give the USOC the ability to decide who will represent the United States in the rare dispute, between an athlete and an NGB, which may arise too close to the Olympics, Paralympics, or Pan-American Games to be resolved prior to the beginning of those games. This provision would not take away or limit any other type of relief. Injunctive relief would be available in disputes that could be resolved under the constitution and by-laws prior to the beginning of the Olympics, Paralympics, or Pan-American Games.

Section 10 would also require the USOC to hire an ombudsman for athletes to provide free advice to athletes about their rights under the Act and under the constitution and bylaws of the USOC and their NGB, and in particular, their rights in any dispute involving an opportunity to compete. The USOC would hire and pay an individual nominated by the AAC to serve as the ombudsman, and could only fire or reduce the pay or administrative expenses of the ombudsman with the consent of the AAC. This restriction is intended to protect the objectivity and autonomy of the ombudsman. The AAC would be expected to consent to the termination of an ombudsman for conduct which would lead to the termination of other USOC employees. The USOC would be required to hire another ombudsman nominated by the AAC in the event of a vacancy.

#### *Section 11. Complete teams*

Section 11 would give the USOC the authority to send an “incomplete team” for a sport if the roster cannot be filled with athletes that have met the eligibility standards of either the USOC, the NGB, the IOC, or the national federation for the sport. The USOC could send a complete team in that circumstance, but would not be required to send a complete team.

#### *Section 12. Recognition of amateur sports organizations*

Section 12(a)(3) would require at least two public hearings (instead of one under current law) prior to the recognition of a new NGB or paralympic sports organization.

Section 12(a)(4) would require the USOC to send written notice to known amateur sports organizations in the sport at least 30 days prior to an NGB selection hearing (including a hearing on an application to replace an existing NGB) and to include in the notice a copy of the application to become the NGB.

Section 12(b)(1) would amend the Act to clarify that NGBs must agree to arbitration using the Commercial Rules of the American Arbitration Association in disputes with the USOC or an athlete, coach, trainer, manager, administrator or official. Section 12(b) would clarify that NGBs must agree to submit to arbitration at the request of an amateur athlete regardless of whether the USOC has demanded such arbitration. It is anticipated that these amendments would precipitate a review of the arbitration rules used for arbitrations between NGBs and athletes and that the USOC, AAC, and NGB Council would reach agreement with respect to: (1) the relief available under arbitration; (2) the point during a dispute at which an athlete may obtain arbitration; and (3) the standard of review to be used by arbitration panels. If the AAC and the NGB Council cannot reach agreement on modified rules for arbitration

then the Commercial Rules of Arbitration will apply unless at least two-thirds of the USOC's board of directors votes to modify those rules.

Section 12(b)(2) would require NGBs to establish criteria and election procedures for selecting "active" amateur athletes to satisfy existing statutory requirement that 20 percent of NGB governing boards be comprised of active amateur athletes. The criteria and election procedures used by NGB's must conform to any guidelines approved by the USOC, the AAC, and the NGB Council. Any exception to those guidelines must be approved by the USOC.

Section 12(b)(2) would also change the Act to require that only 20 percent of the voting power of an NGB, rather than 20 percent of the voting power and membership, be held by amateur athletes. These amendments are intended to provide flexibility so that the different characteristics of NGB boards and athletes in various sports can be taken into account. The amendments would allow the amateur athlete membership of some NGB boards to dip below 20 percent, but it is expected that this would occur only where the characteristics of the sport or of the governing board make it very difficult to meet a 20 percent membership standard. Under no circumstances would the voting power of amateur athletes on the board of an NGB be allowed to be below 20 percent.

Section 12(c) of the bill would require the USOC to, when feasible, merge sports on the program of the Paralympic Games with existing able-bodied NGBs. Where it is not feasible or in the best interest of a Paralympic sport to put it under an able-bodied NGB, the USOC would be allowed to recognize another amateur sports organization as a new NGB for the Paralympic sport, except that the USOC would be allowed to waive the requirements, duties, and powers of the NGB as necessary to meet the objects and purposes of the Act. In addition, a Paralympic NGB could govern more than one sport on the program of the Paralympic Games with the approval of the USOC. By giving the USOC the authority to waive normal NGB requirements, the bill is intended to allow a smooth transition as Paralympic sports become integrated under the USOC umbrella, and to allow the USOC to prevent any severe financial impacts on existing NGBs. The provisions in the bill are largely consistent with the general direction the USOC has taken already with respect to Paralympics.

### *Section 13. Duties of national governing bodies*

Section 13 of the bill would make it a specific duty of NGBs to disseminate and distribute certain information in a timely manner to athletes, coaches and others involved in the sport.

### *Section 14. Authority of national governing bodies*

Section 14 would make modifications to the Act to fully recognize the Paralympic Games.

### *Section 15. Replacement of national governing body*

Section 15 of the bill would specifically require the USOC to notify an NGB of the actions the NGB must take to correct violations of the Act if the USOC has placed an NGB on probation after a complaint has been filed.

*Section 16. Special report to Congress*

Section 16 would require the USOC to report to Congress after five years on the effectiveness of the new provisions added to the Act by the bill, as well as any additional suggested changes to the Act that the USOC believes are needed. The report would provide an occasion for Congress to review the implementation of the amendments and any modifications proposed by the USOC.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 36. PATRIOTIC SOCIETIES AND OBSERVANCES

CHAPTER 17. UNITED STATES OLYMPIC COMMITTEE CORPORATION<sup>1</sup>

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the “Olympic and Amateur Sports Act”.*<sup>2</sup>

**§ 373. Definitions**

As used in this Act, the term—

(1) “amateur athlete” means any athlete who meets the eligibility standards established by the national governing body *or paralympic sports organization* for the sport in which the athlete competes;

(2) “amateur athletic competition” means a contest, game, meet, match, tournament, regatta, or other event in which amateur athletes compete;

(3) “amateur sports organization” means a not-for-profit corporation, club, federation, union, association, or other group organized in the United States which sponsors or arranges any amateur athletic competition;

(4) “Corporation” means the United States Olympic Committee;

(5) “international amateur athletic competition” means any amateur athletic competition between any athlete or athletes representing the United States, either individually or as part of a team, and any athletic or athletes representing any foreign country;

(6) “national governing body” means an amateur sports organization which is recognized by the Corporation in accordance with section 201 of this Act; **[and]**

(7) “*paralympic sports organization*” means an amateur sports organization which is recognized by the Corporation in accordance with section 201(e) of this Act; and

**[(7)]** (8) “sanction” means a certificate of approval issued by a national governing body.

<sup>1</sup>The Act of September 21, 1950, 64 Stat. 899, is carried in the United States Code as chapter 17 of title 36 (36 U.S.C. 371 et seq.).

<sup>2</sup>Added as new section 1 of the Act. Will be reflected as note to section 371 of title 36, United States Code.

**§ 374. Objects and purposes of Corporation**

The objects and purposes of the Corporation shall be to—

(1) establish national goals for amateur athletic activities and encourage the attainment of those goals;

(2) coordinate and develop amateur athletic activity in the United States directly relating to international amateur athletic competition, so as to foster productive working relationships among sports-related organizations;

(3) exercise exclusive jurisdiction, either directly or through its constituent members or committees, over all matters pertaining to the participation of the United States in the Olympic **Games**, *the Paralympic Games*, and in the Pan-American Games, including the representation of the United States in such games, and over the organization of the Olympic **Games**, *the Paralympic Games*, and the Pan-American Games when held in the United States;

(4) obtain for the United States, either directly or by delegation to the appropriate national governing body, the most competent amateur representation possible in each competition and event of the Olympic Games and of the Pan-American Games;

(5) promote and support amateur athletic activities involving the United States and foreign nations;

(6) promote and encourage physical fitness and public participation in amateur athletic activities;

(7) assist organizations and persons concerned with sports in the development of amateur athletic programs for amateur athletes;

(8) provide for the swift resolution of conflicts and disputes involving amateur athletes, national governing bodies, and amateur sports organizations, and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;

(9) foster the development of amateur athletic facilities for use by amateur athletes and assist in making existing amateur athletic facilities available for use by amateur athletes;

(10) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis;

(11) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

(12) encourage and provide assistance to amateur athletic activities for women;

**[(13) encourage and provide assistance to amateur athletic programs and competition for handicapped individuals, including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals; and]**

*(13) encourage and provide assistance to amateur athletic programs and competition for amateur athletes with disabilities, including, where feasible, the expansion of opportunities for meaningful participation by such amateur athletes in pro-*

*grams of athletic competition for able-bodied amateur athletes; and*

(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented.

**§ 375. Powers of Corporation**

(a) The Corporation shall have perpetual succession and power to—

(1) serve as the coordinating body for amateur athletic activity in the United States directly relating to international amateur athletic competition;

(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports **【Organization;】** *Organization and as its national Paralympic committee in relations with the International Paralympic Committee;*

(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic **【Games】** *Games, the Paralympic Games*, and of the Pan-American Games, and obtain, either directly or by delegation to the appropriate national governing body, amateur representation for such games;

(4) recognize eligible amateur sports organizations as national governing bodies for any sport which is included on the program of the Olympic Games or the Pan-American **【Games;】** *Games, or as paralympic sports organizations for any sport that is included on the program of the Paralympic Games;*

(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes which involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and which arise in connection with their eligibility for and participation in the Olympic Games, the **【Pan-American world championship competition,】** *Paralympic Games, the Pan-American Games, world championship competition*, or other protected competition as defined in the constitution and bylaws of the Corporation;

(6) sue and be **【sued;】** *sued, except that any civil action brought in a State court against the Corporation shall be removed, at the request of the Corporation, to the district court of the United States in the district in which the action was brought, and such district court shall have original jurisdiction over the action without regard to the amount in controversy or citizenship of the parties involved, and except that neither this paragraph nor any other provision of this Act shall create a private right of action under this Act;*

(7) make contracts;

(8) acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

(9) accept gifts, legacies, and devices in furtherance of its corporate purposes;

(10) borrow money to carry out its corporate purposes, issue notes, bonds, or other evidences of indebtedness therefor, and secure the same by mortgage, subject in each case to the laws of the United States or of any State;

(11) provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purposes of the Corporation;

(12) approve and revoke membership in the Corporation;

(13) adopt and alter a corporate seal;

(14) establish and maintain offices for the conduct of the affairs of the Corporation;

(15) publish a newspaper, magazine, or other publication consistent with its corporate purposes; and

(16) do any and all acts and things necessary and proper to carry out the purposes of the Corporation.

(b) The Corporation shall adopt and may amend a constitution and bylaws not inconsistent with the laws of the United States or of any State, except that the Corporation may amend its constitution only if it—

(1) publishes in its principal publication a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the Corporation's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in paragraph (2); and

(2) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 60 days after the date of publication of the notice.

### § 376. Membership

(a) Eligibility for membership in the Corporation shall be determined in accordance with the constitution and bylaws of the Corporation.

(b) In its constitution and bylaws, the Corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable representation of—

【(1) amateur sports organizations recognized as national governing bodies in accordance with section 201 of this Act;】

*(1) amateur sports organizations recognized as national governing bodies and paralympic sports organizations in accordance with section 201 of this Act, including through provisions which establish and maintain a National Governing Bodies' Council composed of representatives of the national governing bodies and any paralympic sports organizations and selected by their boards of directors or such other governing boards to ensure effective communication between the Corporation and such national governing bodies and paralympic sports organizations;*

【(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years;】

*(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States*

*in international amateur athletic competition within the preceding 10 years, including through provisions which—*

*(A) establish and maintain an Athletes' Advisory Council composed of, and elected by, such amateur athletes to ensure communication between the Corporation and such amateur athletes; and*

*(B) ensure that the membership and voting power held by such amateur athletes is not less than 20 percent of the membership and voting power held in the board of directors of the Corporation and in the committees and entities of the Corporation;*

(3) amateur sports organizations which conduct a national program or regular national amateur athletic competition in two or more sports which are included on the program of the Olympic **[Games]** *Games, the Paralympic Games, or the Pan-American Games* on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and

(4) individuals not affiliated or associated with any amateur sports organization who in the Corporation's judgment represent the interest of the American public in the activities of the Corporation.

**§ 380. Use of Olympic symbols, emblems, trademarks and names**

(a) UNAUTHORIZED USE; CIVIL ACTION; LAWFUL USE PRIOR TO SEPTEMBER 21, 1950.—Without the consent of the Corporation, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

(1) the symbol of the International Olympic Committee, consisting of 5 interlocking **[rings;]** *rings, the symbol of the International Paralympic Committee, consisting of three TaiGeuks, or the symbol of the Pan-American Sports Organization, consisting of a torch surrounded by concentric rings;*

(2) the emblem of the Corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with 5 interlocking rings displayed on the chief;

(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic **[Committee]** *Committee, the International Paralympic Committee, the Pan-American Sports Organization, or the Corporation; or*

(4) *except as permitted in this subsection and subsection (c), the words "Olympic", "Olympiad", "Citius Altius Fortius", "Paralympic", "Paralympiad", "Pan-American", "America Espirito Sport Fraternite", or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any [Olympic] Olympic, Paralympic, or Pan-American Games activity;*

shall be subject to suit in a civil action by the Corporation for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; popu-

larly known as the Trademark Act of 1946). However, any person who actually used the emblem in subsection (a)(2), or the words, or any combination thereof, in subsection (a)(4) for any lawful purpose prior to September 21, 1950, shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services. In addition, any person who actually used, or whose assignor actually used, any other trademark, trade name, sign, symbol, or insignia described in subsections (a)(3) and (4) for any lawful purpose prior to enactment of this Act shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services. *Use of the word 'Olympic' to identify a business or goods or services is not prohibited by this section where it is evident from the circumstances that the use of the word 'Olympic' refers to the geographical features or a region of the same name, and not a connection with the Corporation or any Olympic activity.*

(b) CONTRIBUTORS AND SUPPLIERS.—The Corporation may authorize contributors and suppliers of goods or services to use the trade name of the Corporation as well as any trademark, symbol, insignia, or emblem of the International Olympic [Committee] *Committee, International Paralympic Committee, Pan-American Sports Organization*, or of the Corporation in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Corporation or United States [Olympic] *Olympic, Paralympic, or Pan-American team or team members.*

(c) EXCLUSIVE RIGHT OF CORPORATION.—The Corporation shall have exclusive right to use the name “United States Olympic Committee”; the [symbol] *symbols* described in subsection (a)(1); the emblem described in subsection (a)(2); and the words “Olympic”, “Olympiad”, “Citius Altius [Fortius] *Fortius*”, “Paralympic”, “Paralympiad”, “Pan-American”, or any combination thereof subject to the preexisting rights *and rights of geographical reference* described in subsection (a).

### § 381. Agents for service of process

As a condition precedent to the exercise of any power or privilege granted or conferred under this Act, the Corporation shall [file in the office of the secretary of state, or similar office, in each State the name and post-office address of an authorized agent of the Corporation in such State upon whom local process or demands against the Corporation may be served.] *have a designated agent in the State of Colorado to receive service of process for the Corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.*

### § 382a. Annual reports to President and Congress on operations; reports to Speaker of House and President of Senate on authorized grants

[(a) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding calendar year, including a full and complete statement of its receipts and expenditures and a comprehensive description of the ac-



tivities and accomplishments of the Corporation during the preceding year. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost.

[(b) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the Speaker of the House of Representatives and to the President of the Senate a detailed report of those grants authorized to the Corporation pursuant to the provisions of section 211 of the Act and a full and complete statement of the expenditures of such funds made available. The report shall be referred to the Committee on Appropriations of each House and shall include a detailed and comprehensive description of those programs which the Corporation anticipates it will finance during the next fiscal year out of such funds made available pursuant to the provisions of section 211 [210] of the Act. The Corporation shall continue to transmit the report required under this subsection (b) until the total sums made available under section 211 of the Act have been expended.]

*SEC. 113. The Corporation shall, on or before the first day of June, 2001, and every fourth year thereafter, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding four years, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during such four year period. The report shall contain data concerning the participation of women, disabled individuals, and racial and ethnic minorities in the amateur athletic activities and administration of the Corporation and national governing bodies, and a description of the steps taken to encourage the participation of women, disabled individuals, and racial minorities in amateur athletic activities. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost.*

#### **§ 382b. Resolution of disputes**

(a) In its constitution and bylaws, the Corporation shall establish and maintain provisions for the swift and equitable resolution of disputes involving any of its members and relating to the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition, or other such protected competition as defined in such constitution and bylaws. *In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, or the Pan-American Games, a court shall not grant injunctive relief against the Corporation within 21 days before the beginning of such games if the Corporation, after consultation with the chair of the Athletes' Advisory Council, has provided a sworn statement in writing executed by an officer of the Corporation to such court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games.*

(b)(1) *The Corporation shall hire and provide salary, benefits, and administrative expenses for an ombudsman for athletes, who shall—*

(A) *provide independent advice to athletes at no cost about the applicable provisions of this Act and the constitution and*

*bylaws of the Corporation, national governing bodies, paralympic sports organizations, international sports federations, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization, and with respect to the resolution of any dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition or other protected competition as defined in the constitution and bylaws of the Corporation;*

*(B) assist in mediating any such disputes; and*

*(C) report to the Athletes' Advisory Council on a regular basis.*

*(2)(A) The procedure for hiring the ombudsman for athletes shall be as follows:*

*(i) The Athletes' Advisory Council shall provide the Corporation's executive director with the name of one qualified person to serve as ombudsman for athletes.*

*(ii) The Corporation's executive director shall immediately transmit the name of such person to the Corporation's executive committee.*

*(iii) The Corporation's executive committee shall hire or not hire such person after fully considering the advice and counsel of the Athletes' Advisory Council.*

*If there is a vacancy in the position of the ombudsman for athletes, the nomination and hiring procedure set forth in this paragraph shall be followed in a timely manner.*

*(B) The Corporation may terminate the employment of an individual serving as ombudsman for athletes only if—*

*(i) the termination is carried out in accordance with the applicable policies and procedures of the Corporation;*

*(ii) the termination is initially recommended to the Corporation's executive committee by either the Corporation's executive director or by the Athletes' Advisory Council; and*

*(iii) the Corporation's executive committee fully considers the advice and counsel of the Athletes' Advisory Council prior to deciding whether or not to terminate the employment of such individual.*

#### **§ ———. Complete teams<sup>3</sup>**

*In obtaining representation for the United States in each competition and event of the Olympic Games, Paralympic Games, and Pan-American Games, the Corporation, either directly or by delegation to the appropriate national governing body or paralympic sports organization, may select, but is not obligated to select (even if not selecting will result in an incomplete team for an event), athletes who have not met the eligibility standard of at least one of the national governing body, the Corporation, the International Olympic Committee, or the appropriate international sports federation, when the number of athletes who have met the eligibility standard of at least one of such entities is insufficient to fill the roster for an event.*

<sup>3</sup> Added as new section 115 of the Act.

**§ 391. Recognition of amateur sports organizations**

(a) NATIONAL GOVERNING BODY; APPLICATION; NOTICE AND HEARING.—**【**For any sport which is included on the program of the Olympic Games or the Pan-American Games, the Corporation is authorized to recognize as a national governing body an amateur sports organization which files an application and is eligible for such recognition, in accordance with the provisions of subsection (b) of this section.**】** *For any sport which is included on the program of the Olympic Games, the Paralympic Games, or the Pan-American Games, the Corporation is authorized to recognize as a national governing body (in the case of a sport on the program of the Olympic Games or Pan-American Games) or as a paralympic sports organization (in the case of a sport on the program of the Paralympic Games for which a national governing body has not been designated under subsection (e)) an amateur sports organization which files an application and is eligible for such recognition in accordance with the provisions of subsection (b) or (e) of this section.* The Corporation shall recognize only one national governing body for each sport for which an application is made and **【**approved.**】** *approved, except as provided in subsection (e) with respect to a paralympic sports organization.* Prior to the recognition of a national governing body under the authority granted under this title and in accordance with the procedures and requirements of this section, the Corporation shall **【**hold a hearing**】** *hold at least 2 hearings* open to the public on the application for such recognition. The Corporation shall publish notice of the time, place, and nature of the hearing. Publication shall be made in a regular issue of the Corporation's principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing. *In addition, the Corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the Corporation in that sport.*

(b) ELIGIBILITY REQUIREMENTS.—No amateur sports organization is eligible to be recognized or is eligible to continue to be recognized as a national governing body unless it—

(1) is incorporated under the laws of any of the several States of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition, and has the managerial and financial capability to plan and execute its obligations;

(2) submits an application for recognition, in such form as the Corporation shall require, as a national governing body and, upon application, submits a copy of its corporate charter and bylaws and any additional information as is considered necessary or appropriate by the Corporation;

**【**(3) agrees to submit, upon demand of the Corporation, to binding arbitration conducted in accordance with the commercial rules of the American Arbitration Association in any controversy involving its recognition as a national governing body, as provided for in section 205 of this title, or involving the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, as provided for in the Corporation's constitution and bylaws;**】**

(3) *agrees to submit, upon demand of the Corporation, to binding arbitration in any controversy involving its recognition as a national governing body, as provided for in section 205, and upon demand of the Corporation or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, to binding arbitration in any controversy involving the opportunity of such amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, conducted in accordance with the Commercial Rules of the American Arbitration Association, as modified and provided for in the Corporation's constitution and bylaws, provided that if the Athletes' Advisory Council and National Governing Bodies' Council do not concur on any modifications to such Rules, and if the Corporation's executive committee is not able to facilitate such concurrence, the Commercial Rules of Arbitration shall apply unless at least two-thirds of the Corporation's board of directors approves modifications to such Rules;*

(4) demonstrates that it is autonomous in the governance of its sport, in that it independently determines and controls all matters central to such governance, does not delegate such determination and control, and is free from outside restraint, and demonstrates that it is a member of no more than one international sports federation which governs a sport included on the program of the Olympic Games or the Pan-American Games;

(5) demonstrates that its membership is open to any individual who is an amateur athlete, coach, trainer, manager, administrator, or official active in the sport for which recognition is sought, or to any amateur sports organization which conducts programs in the sport for which recognition is sought, or to both;

(6) provides an equal opportunity to amateur athletes, coaches, trainers, managers, administrators, and officials to participate in amateur athletic competition, without discrimination on the basis of race, color, religion, age, sex, or national origin, and with fair notice and opportunity for a hearing to any amateur athlete, coach, trainer, manager, administrator, or official before declaring such individual ineligible to participate;

(7) is governed by a board of directors or other such governing board whose members are selected without regard to race, color, religion, national origin or sex, except that, in sports where there are separate male and female programs, it provides for reasonable representation of both males and females on such board of directors or other such governing board;

【(8) demonstrates that its board of directors or other such governing board includes among its voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition in the sport for which recognition is sought within the preceding 10 years, and that the membership and voting power held by such individuals is not less than 20 percent of such membership and voting power held in that board of directors or other such governing board;】

(8) demonstrates, based on guidelines approved by the Corporation, the Athletes' Advisory Council, and the National Governing Bodies' Council, that its board of directors and other such governing boards have established criteria and election procedures for and maintain among their voting members individuals who are actively engaged in amateur athletic competition in the sport for which recognition is sought or who have represented the United States in international amateur athletic competition within the preceding 10 years, that any exceptions to such guidelines by such organization have been approved by the Corporation, and that the voting power held by such individuals is not less than 20 percent of the voting power held in its board of directors and other such governing boards;

(9) provides for reasonable direct representation on its board of directors or other such governing board for any amateur sports organization which, in the sport for which recognition is sought, conducts, on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition, a national program or regular national amateur athletic competition, and ensures that such representation shall reflect the nature, scope, quality, and strength of the programs and competitions of such amateur sports organization in relation to all other such programs and competitions in such sport in the United States;

(10) demonstrates that none of its officers are also officers of any other amateur sports organization which is recognized as a national governing body;

(11) provides procedures for the prompt and equitable resolution of grievances of its members;

(12) does not have eligibility criteria relating to amateur status or to participation in the Olympic Games, the Paralympic Games, or the Pan-American Games which are more restrictive than those of the appropriate international sports federation; and

(13) demonstrates, if it is an amateur sports organization seeking recognition as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under section 202 of this Act.

(c) PERIOD WITHIN WHICH TO COMPLY WITH ELIGIBILITY REQUIREMENTS; SUSPENSION OR REVOCATION OF RECOGNITION.—

(1) Except as provided in paragraph (2), any amateur sports organization which on the date of enactment of this title is recognized by the Corporation to represent a particular sport shall be considered to be the national governing body for that sport. Such an organization is exempt for a period of 2 years from the date of enactment of this title from meeting the requirements of subsection (b) of this section, and during the 2-year period shall take the necessary actions to meet such requirements if it desires to retain its recognition. After the expiration of the 2-year period, such an organization shall continue as the national governing body for that sport unless the Corporation determines that such organization is not in compliance with the requirements of subsection (b) of this section, in which event the Corporation shall—

(A) suspend the recognition of such national governing body;

(B) revoke the recognition of such national governing body; or

(C) extend the 2-year period for not longer than 1 year, if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements.

If, at the end of the extension period referred to in subparagraph (C) of this paragraph, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body. Any such national governing body aggrieved by the Corporation's determination under this subsection may submit a demand for arbitration in accordance with section 205 (c) of this title.

(2) Notwithstanding the provisions of paragraph (1), the Corporation may suspend or revoke the recognition of a national governing body during the 2-year period if such suspension or revocation is for the same reason as the Corporation could have revoked or suspended such national governing body prior to the date of the enactment of this title.

(d) RECOMMENDATION OF NATIONAL GOVERNING BODY AS UNITED STATES REPRESENTATIVE TO APPROPRIATE INTERNATIONAL SPORT FEDERATION.—Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with subsection (a) of this section, the Corporation shall recommend and support in any appropriate manner such national governing body to the appropriate international sports federation as the representative of the United States for that sport.

(e) *For any sport which is included on the program of the Paralympic Games, the Corporation is authorized to designate, where feasible and when such designation would serve the best interest of the sport, and with the approval of the affected national governing body, a national governing body recognized under subsection (a) to govern such sport. Where such designation is not feasible or would not serve the best interest of the sport, the Corporation is authorized to recognize another amateur sports organization as a paralympic sports organization to govern such sport, except that, notwithstanding the other requirements of this Act, any such paralympic sports organization—*

*(1) shall comply only with those requirements, perform those duties, and have those powers that the Corporation, in its sole discretion, determines are appropriate to meet the objects and purposes of the Act; and*

*(2) may, with the approval of the Corporation, govern more than one sport included on the program of the Paralympic Games.*

### **§ 392. Duties of national governing bodies**

(a) For the sport which it governs, a national governing body is under duty to—

(1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents;

(2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;

[(3) keep] (3)(A) *keep* amateur athletes informed of policy matters and reasonably reflect the views of such athletes in its policy decisions; and

(B) *disseminate and distribute to amateur athletes, coaches, trainers, managers, administrators and officials in a timely manner the applicable rules and any changes to such rules of the national governing body, the Corporation, the appropriate international sports federation, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization;*

(4) promptly review every request submitted by an amateur sports organization or person for a sanction (A) to hold an international amateur athletic competition in the United States; or (B) to sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, and determine whether to grant such sanction, in accordance with the provisions of subsection (b) of this section;

(5) allow an amateur athlete to compete in any international amateur athletic competition conducted under its auspices or that of any other amateur sports organization or person, unless it establishes that its denial was based on evidence that the organization or person conducting the competition did not meet the requirements stated in subsection (b) of this section;

(6) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis;

(7) encourage and support amateur athletic sports programs for [handicapped] *disabled* individuals and the participation of [handicapped] *disabled* individuals in amateur athletic activity, including, where feasible, the expansion of opportunities for meaningful participation by [handicapped] *disabled* individuals in programs of athletic competition for able-bodied individuals;

(8) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis; and

(9) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety.

(b) As a result of its review under subsection (a)(4) of this section, if a national governing body does not determine by clear and convincing evidence that holding or sponsoring an international amateur athletic competition would be detrimental to the best interest of the sport, the national governing body shall promptly grant to an amateur sports organization or person a sanction to—

(1) hold an international amateur athletic competition in the United States, if such amateur sports organization or person—

(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

(B) demonstrates that—

(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

(ii) appropriate provision has been made for validation of records which may be established during the competition,

(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

(iv) the competition will be conducted by qualified officials,

(v) proper medical supervision will be provided for athletes who will participate in the competition, and

(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition, and

(C) submits to the national governing body an audited or notarized financial report of similar events, if any, conducted by the amateur sports organization or person; or

(2) sponsor United States amateur athletes to compete in international amateur athletic competition held outside the United States, if such amateur sports organization or person—

(A) pays to the national governing body any required sanctioning fee, if such fee is reasonable and nondiscriminatory;

(B) submits a letter from the appropriate entity which will hold the international amateur athletic competition certifying that—

(i) appropriate measures have been taken to protect the amateur status of athletes who will take part in the competition and to protect their eligibility to compete in amateur athletic competition,

(ii) appropriate provision has been made for validation of records which may be established during the competition,

(iii) due regard has been given to any international amateur athletic requirements specifically applicable to the competition,

(iv) the competition will be conducted by qualified officials,

(v) proper medical supervision will be provided for athletes who will participate in the competition, and

(vi) proper safety precautions have been taken to protect the personal welfare of the athletes and spectators at the competition; and

(C) submits a report of the most recent trip, if any, to a foreign country which the amateur sports organization or person sponsored for the purpose of having United States amateur athletes compete in international amateur athletic competition.



**§ 393. Authority of national governing bodies**

For the sport which it governs, a national governing body is authorized to—

- (1) represent the United States in the appropriate international sports federation;
- (2) establish national goals and encourage the attainment of those goals;
- (3) serve as the coordinating body for amateur athletic activity in the United States;
- (4) exercise jurisdiction over international amateur athletic activities and sanction international amateur athletic competition held in the United States and sanction the sponsorship of international amateur athletic competition held outside the United States;
- (5) conduct amateur athletic competition, including national championships, and international amateur athletic competition in the United States, and establish procedures for the determination of eligibility standards for participation in such competitions, except for that amateur athletic competition specified in section 206 of this title;
- (6) recommend to the Corporation individuals and teams to represent the United States in the Olympic **【Games】 Games**, *the Paralympic Games*, and the Pan-American Games; and
- (7) designate individuals and teams to represent the United States in international amateur athletic competition (other than the Olympic **【Games】 Games**, *the Paralympic Games*, and the Pan-American Games) and certify, in accordance with applicable international rules, the amateur eligibility of such individuals and teams.

**§ 395. Compelling compliance with eligibility requirements and performance of duties by national governing bodies**

(a) WRITTEN COMPLAINT; EXHAUSTION OF REMEDIES REQUIREMENT; HEARING; DETERMINATION BY CORPORATION; PROBATION; REVOCATION OF RECOGNITION.—

(1) Any amateur sports organization or person which belongs to or is eligible to belong to a national governing body may seek to compel such national governing body to comply with the requirements of sections 201(b) and 202 of this title by filing a written complaint with the Corporation. Such organization or person may take such action only after having exhausted all available remedies within such national governing body for correcting deficiencies, unless it can be shown by clear and convincing evidence that those remedies would have resulted in unnecessary delay. The Corporation shall establish procedures for the filing and disposition of complaints received under this subsection. A copy of the complaint shall also be served on the applicable national governing body.

(2) Within 30 days after the filing of the complaint, the Corporation shall determine whether the organization has exhausted its remedies within the applicable national governing body, as provided in paragraph (1) of this subsection. If the Corporation determines that any such remedies have not been

exhausted, it may direct that such remedies be pursued before the Corporation will further consider the complaint.

(3) (A) Within 90 days after the filing of a complaint under paragraph (1) of this subsection, if the Corporation determines that all such remedies have been exhausted, it shall hold a hearing to receive testimony for the purpose of determining if such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title.

(B) If the Corporation determines, as a result of the hearings conducted pursuant to this subsection, that such national governing body is in compliance with the requirements of sections 201(b) and 202 of this title, it shall so notify the complainant and such national governing body.

(C) If the Corporation determines, as a result of hearings conducted pursuant to this subsection, that such national governing body is not in compliance with the requirements of sections 201(b) and 202 of this title, it shall—

(i) place such national governing body on probation for a specified period of time, not to exceed 180 days, which it considers necessary to enable such national governing body to comply with such requirements, *and notify such national governing body of such probation and of the actions needed to comply with such requirements*, or

(ii) revoke the recognition of such national governing body.

(D) If the Corporation places a national governing body on probation pursuant to this paragraph, it may extend the probationary period if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with such requirements. If, at the end of the period allowed by the Corporation, the national governing body has not complied with such requirements, the Corporation shall revoke the recognition of such national governing body.

(b) REPLACEMENT OF INCUMBENT NATIONAL GOVERNING BODY.—

(1) Any amateur sports organization may seek to replace an incumbent as the national governing body for a particular sport by filing with the Corporation a written application for such recognition. Such application shall be filed (A) within the 1-year period after the final day of any Olympic Games, in the case of a sport for which competition is held in the **【Olympic Games or in both】** *Olympic Games or the Paralympic Games*, or *in both* the Olympic and Pan-American Games; or (B) within the 1-year period after the final day of any Pan-American Games, in the case of a sport for which competition is held in the Pan-American Games and not in the Olympic Games. If two or more organizations file applications for the same sport, such applications shall be considered in a single proceeding.

(2) Any application filed under this subsection shall be filed with the Corporation by **【registered】** *certified* mail. The Corporation shall establish procedures for the filing and disposition of applications received under this subsection. A copy of any such application for recognition shall also be served on the

applicable national governing [body] *body and with any other organization that has filed an application*. The Corporation shall inform the applicant for recognition that its application has been received.

(3) Within 180 days after receipt of an application filed under this subsection, the Corporation shall conduct a formal hearing *open to the public* to determine the merits of the application. The Corporation shall publish notice of the time and place of such hearing in a regular issue of its principal publication at least 30 days, but not more than 60 days, prior to the date of the hearing. *In addition, the Corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the Corporation in that sport.* In the course of such hearing, the applicant and the national governing body shall be given a reasonable opportunity to present evidence supporting their respective positions. During such hearing, the applicant amateur sports organization must establish by a preponderance of the evidence that it meets the criteria for recognition as a national governing body under section 201(b) of this title, and that—

(A) the national governing body does not meet the criteria of section 201(b) or 202; or

(B) it more adequately meets the criteria of section 201(b), is capable of more adequately meeting the criteria of section 202, and provides or is capable of providing a more effective national program of competition, than the national governing body in the sport for which it seeks recognition.

(4) Within 30 days of the close of the hearing required under this subsection, the Corporation shall—

(A) uphold the right of the national governing body to continue as the national governing body for its sport;

(B) revoke the recognition of the national governing body and declare a vacancy in the national governing body for that sport;

(C) revoke the recognition of the national governing body and recognize the applicant as the national governing body; or

(D) decide to place the national governing body on probation of not to exceed 180 days, pending the compliance of the national governing body, if such national governing body would have retained recognition except for a minor deficiency in one of the requirements of section 201(b) or 202 of this title.

If the national governing body does not comply within the prescribed time period, the Corporation shall revoke the recognition of the national governing body and either recognize the applicant as the national governing body, or declare a vacancy in the national governing body for that sport.

(5) Within 61 days after recognizing an amateur sports organization as a national governing body, in accordance with this subsection, the Corporation shall recommend and support in any appropriate manner such national governing body to the

appropriate international sports federation as the representative of the United States for that sport.

(c) ARBITRATION OF CORPORATION DETERMINATIONS.—

(1) The right to review by any party aggrieved by a determination of the Corporation under the requirements of this section or section 201(c) shall be to any regional office of the American Arbitration Association. Such demand for arbitration shall be submitted within 30 days of the determination of the Corporation. Upon receipt of such a demand for arbitration, the Association shall serve notice on the parties to the arbitration and on the Corporation, and shall immediately proceed with arbitration according to the commercial rules of the Association in effect at the time of the filing of the demand, except that—

(A) the arbitration panel shall consist of not less than three arbitrators, unless the parties to the proceeding mutually agree to a lesser number;

(B) the arbitration hearing shall take place at a site selected by the Association, unless the parties to the proceeding mutually agree to the use of another site; and

(C) the arbitration hearing shall be open to the public.

(2) The arbitrators in any arbitration are empowered to settle any dispute arising under the provisions of this Act prior to making a final award, if mutually agreed to by the parties to the proceeding and achieved in a manner not inconsistent with the constitution and bylaws of the Corporation.

(3) Each contesting party may be represented by counsel or by any other duly authorized representative at the arbitration proceeding. The parties may offer any evidence which they desire and shall produce any additional evidence as the arbitrators believe necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence shall not be necessary.

(4) All decisions by the arbitrators shall be by majority vote unless the concurrence of all is expressly required by the contesting parties.

(5) Final decision of the arbitrators shall be binding upon the involved parties, if such award is not inconsistent with the constitution and bylaws of the Corporation.

(6) The hearings may be reopened, by the arbitrators upon their own motion or upon the motion of any contesting party, at any time before a final decision is made, except that, if any contesting party makes such a motion, all parties to the decision must agree to reopen the hearings if such reopening would result in the arbitrators' decision being delayed beyond the specific period agreed upon at the beginning of the arbitration proceedings.