

**September 12, 2022**

**To: Mitch Garner, Law & Legislation Chair**

**From: Ed Koch, L&L Member**

**Re: Summary & Explanation of Board Temporary Amendments of 8/8/22**

This is a summary and explanation of the Board's Temporary Amendments of August 8, 2022. There are eleven Temporary Amendments. Six are part of a compromise described below. The other five are compliance amendments following a recent USOPC audit of USATF.

Until now, the Delegates (representing the Membership) have voted on final approval of all permanent changes to the USATF Bylaws or Regulations. In 2020 and 2021, the Board passed Temporary Amendments that gave the Board the final authority on making permanent changes. However, the Membership voted to reject these Temporary Amendments. The Board passed Temporary Amendments a third time shortly after the 2021 Annual Meeting.

After much negotiation between the leadership and opponents of the Temporary Amendments, a compromise was finally reached this summer. The Board approved the compromise by passing five new Temporary Amendments on August 8, 2022, which supersede the Temporary Amendments they passed after the 2021 Annual Meeting. The August Temporary Amendments now need a vote by the Delegates at the 2022 Annual meeting to make the compromise permanent.

Under the compromise, changes to a Bylaws and Regulations that primarily impact the business aspects and "nuts & bolts" of USATF are given to the Board to consider final approval after an advisory vote by the Delegates. Changes to Bylaws & Regulations that primarily impact the Membership are given to the Delegates to consider final approval. And for a few Bylaws and Regulations, approval by both the Delegates and the Board are needed for changes.

There is also a significant change regarding the Chair of the Board. For most of USATF's history, the President (who is elected by the Delegates) has automatically been the Chair of the Board. However, the Board's Temporary Amendments in 2021 would have changed this to give the Board sole control in

the selection of its Chair. The compromise makes the President the Chair unless & until two-thirds of the Board selects another Board member to serve in the role.

The specifics of the compromise are summarized below:

**1. Temporary Amendment to Bylaw Article 21:** The revised Bylaw 21 still allows the Board to pass Temporary Amendments with a two-thirds vote. A simple majority of the Board can simply propose an amendment.

Temporary and Proposed Amendments proposed by the Board are divided into three “buckets” which divide the 46 Bylaw Articles and Regulations.

**A. The “default” bucket** contains these Bylaws and Regulations:

Articles 1, 2, 3, 4, 5, 12, 13, 14 (except D&E), 15, 17 (except A-H), 18, 19, 20, and Regulations 1, 2, 3, 8, 9, 10, 17-25.

The Temporary Amendments and Proposed Amendments by the Board that change Bylaws and Regulations in the “default” bucket go to the delegates at the next Annual Meeting for an advisory vote after which the Board can take final action.

**B. The “carve-out” bucket** contains these Bylaws and Regulations:

Articles 6, 8, 9, 11, 14 (D & E only), 16, 17 (A-H only), and 21, and Regulations 4, 6, 7, 11, 13, 14, 15, and 16 (except C & I).

The Temporary Amendments and Proposed Amendments proposed by the Board in the “carve-out” bucket go to the delegates at the next annual meeting to vote on final approval.

**C. The “carve out of the carve-out” bucket** contains these Bylaws and Regulations:

Articles 7 & 10, and Regulations 12 & 16 (C & I).

The Temporary Amendments and Proposed Amendments by the Board in the “carve-out of the carve-out” bucket in order to become permanent, need to be first be approved by the delegates, and then ratified by the Board, or if the Board takes no action within 90 days.

Additionally, for Regulation 16(C) concerning the AAC, “athletes and elected athlete representatives of the AAC shall be the primary decision makers about the operations of the AAC and shall operate in accordance with Article 3(B)(14 & 15), its Operating Procedures, and all applicable laws.”

Note that for Temporary Amendments and Proposed Amendments by the Board, the Law Legislation Committee can comment and make recommendations to the Board, but not to the delegates. It simply reports the Temporary or Proposed Amendments by the Board to the delegates for them to vote. In 2020, the USATF Parliamentarian ruled that the delegates vote up-or-down on Temporary Amendments as passed by the Board without any amendments to the Temporary Amendments.

For proposed amendments made by USATF members and not by the Board, they fall into the same three buckets and are treated accordingly. They go through the regular Law & Legislation process and are also included in a preliminary L&L packet that goes to the Board in October for review before going to the membership thirty days before the Annual Meeting. The Law & Legislation Committee may make recommendations to the delegates on these amendment proposals.

**2. Temporary Amendment to Article 10:** As mentioned above, this Temporary Amendment makes the President the Chair of the Board unless or until the Board picks another Board member to serve in that role.

Other Miscellaneous Temporary Amendments:

**3. Temporary Amendment to Article 11:** The amendment makes all Board terms begin on January 1<sup>st</sup>. Prospective Board members must submit Code of Ethics statements, undergo background checks, and comply with Safe Sport.

**4. Temporary Amendment to Regulation 8:** The regulation will give the Board express authority to determine whether Annual Meetings or Special Meetings will be in-person, virtual, or hybrid.

**5. Temporary Amendment to Regulation 11:** The Board will give the Board authority to approve not only Sport Committee Chairs (as it already has had), but also all Committee Chairs appointed by the President. It must vote on the

appointments within 90 days. Also, Committees must submit their Operating Procedures and revisions to both the Board and the Law & Legislation Committee.

**6. Temporary Amendment to Regulation 16(H) (2):** The delegates voted down Temporary Amendments to this Regulation in 2020 and 2021, but most of what the Board had sought passed elsewhere in the 2021 L&L packet. As part of the compromise, the Board passed an amendment that beginning in 2025, the Board Chair instead of the President will still appoint the L&L Chair but must consult with the President first.

**Additional Temporary Amendments for USOPC Compliance:** In addition to the compromise, the Board also passed five Temporary Amendments to achieve compliance with the USOPC following its compliance audit:

**7. Temporary Amendment to Article 11.E:** The paragraph is replaced with a new paragraph on the core qualifications of Board members.

**8. Temporary Amendment to Regulation 16 (H)(3):** The language makes clear that the term limits apply to the individual, not to the seat. In other words, and individual cannot serve 8 years as a representative of one constituency and immediately shift to serve as a representative of another constituency.

**9. Temporary Amendment to Regulation 11 (A):** The language now gives the Board the authority to recommend, approve, and oversee all USATF committee programs.

**10. Temporary Amendment to Article 21.E.6:** The language about the L&L process shall indicate that the L&L Committee shall submit the L&L packet at least 14 business days to the Board before it goes to the membership.

**11. Temporary Amendment to Article 21.A (3)** by adding a new subparagraph (d) that the Board and Law & Legislation Committee shall review all amendment proposals before submission for a vote to insure compliance with Article 3.B (14 & 15) (compliance with the WA, USOPC, and all applicable law).

**A final note:** L&L Scorecards in future years will need to be a bit more complicated so that the delegates know in which buckets the various proposal belong

