



National Archery in the Schools Program

**National Archery in the Schools Program, Inc.
W4285 Lake Drive, Waldo, WI 53093
920-523-6040**

Changing lives...One arrow at a time!

October 11, 2024

Bryan Marcum and IBO,

I'm writing on behalf of the NASP®'s board of directors in response to IBO's August 24, 2024 letter (copy enclosed), in which IBO stated its intent to change how the NASP®/IBO 3D Challenge is implemented by imposing a rule that (1) prohibits students identified as male at birth from competing in "female only" classes; and (2) requires students whose gender is challenged in competition to prove their birth sex with supporting documentation. The purpose of this letter is to:

1. Make clear why the IBO's proposed rule is a major rule change that requires NASP®'s consent, which NASP® has not and will not provide;
2. Provide IBO notice that the parties' September 5, 2019 agreement (copy enclosed) will terminate effective October 18, 2025; and
3. Establish NASP®'s expectations for the parties' relationship between now and October 18, 2025, including (a) the consequences of any effort by IBO to implement its rule change in the NASP®/IBO 3D Challenge, (b) the parties' respective rights to the 3D Challenge, and (c) NASP®'s hope for a collegial and cooperative relationship during the parties' final year together.

I'll try to address each of these issues in an organized and objective way.

I. NASP®'s 12-month advance notice of termination.

At bottom, the parties' fundamental disagreement over the rule change proposed by IBO, along with IBO's unfortunate resort to personal and irrelevant attacks in recent discussions, make it clear that a relationship with IBO is no longer in NASP®'s best interests. Therefore, NASP® has decided the parties' September 5, 2019 agreement will terminate effective October 18, 2025 unless either:

1. The parties successfully negotiate an earlier termination date; or
2. IBO materially breaches the parties' agreement by actions including but not necessarily limited to implementing its new rule at NASP®/IBO 3D Challenge events over the next year without NASP®'s expressed written consent.

There will be related details the parties must address that are not covered in this letter. Please contact me at your earliest convenience to discuss those details.

II. IBO's proposed rule is a major change that requires NASP®'s consent.

IBO's new rule on gender eligibility and protests is far more than a "clarification" of existing rules. It is a major change to implementation of the 3D Challenge that requires NASP®'s consent and which, if implemented without consent, would be a material breach and cause for immediate termination of our organizations' agreement. The purpose, history, and rules of both NASP® and the 3D Challenge leave no room for doubt:

- a. NASP® partners with schools in 49 states, 10 Canadian provinces, and other countries, serving over 1.3 million students each year across a multitude of jurisdictions, each with its own laws and rules on student eligibility and participation in activities like archery.
- b. Recognizing this, the express and essential purpose of the parties' September 2019 agreement is to "provide *opportunity* for *NASP® school students*" to participate in the 3D Challenge, and "to ensure the program remains a *safe and welcoming*" experience for those students. This purpose runs through every aspect of what NASP® does. Any rule changes—even "clarification"—must be compatible with it.
- c. NASP®'s Letter of Understanding with schools makes clear that NASP®'s programs exist "for the benefit of students" and that NASP® offers tournaments "to *encourage* student participation." This is accomplished, in part, by requiring that archery lessons be offered through each school's curriculum. A rule that forces vulnerable young students to defend their identity just to participate in an *educational* activity is not compatible with a tournament designed to be as inclusive as possible.
- d. Because NASP® is a part of each school's curriculum, and because NASP® operates in almost every state in the country and multiple countries around the globe, eligibility determinations must—as they always have been—be

addressed by each participating school according to local policy and law.¹ Accordingly, every student in a participating school is considered eligible for NASP® tournaments and every registrant is only required to provide their name, grade, gender, shooter number, and school affiliation as determined at the local level.

- e. This approach to archery is engrained in NASP's ® rules, including published rules for NASP® tournaments and the 3D Challenge. Competition divisions within NASP® schools are defined by *grade level*, not *sex* (Tournament Rule 1.3). Single-gender schools' scores are determined by summing the top 12 scores for the team "*with no consideration of gender*" (Rule 1.7). Because NASP® operates as a school program, it abides by each individual school's decisions about a student's suitability to represent that school at NASP® tournaments (Rule 1.9). If a student is disqualified at a state, provincial, or regional tournament, their eligibility to participate in future tournaments is dependent on regaining good standing *in his or her state or province* (Rule 1.10). Even at 3D Challenge events, sportsmanship and protest issues are governed by, and defer to, NASP® bullseye tournament rules (Rules 8 and 9). Notably, in issues of sportsmanship, NASP® officials and tournament directors have the right to make on site decisions about issues not expressly covered in the rules, and their decision is final (Rule 8).
- f. Allowing protests based on a student's perceived gender would severely impair the purpose of the 3D Challenge and why NASP® entered into an agreement with IBO in the first place. In contrast, allowing such protests and requiring proof of biological sex to overcome it does little if anything to reduce "unfair" competitive advantages, particularly since statistics, which NASP® has shared before, show such advantages at school age are minimal, if present at all.
- g. Allowing protests based on a student's perceived gender would be a *major change* to the *implementation* of the 3D Challenge, which requires NASP®'s express consent and which NASP® is in no way obligated to approve if it determines, in its sole discretion, that the change would be detrimental to NASP® or its participants. This is no mere clarification because it directly impacts eligibility, participation, retention, protests, and tournament outcomes, to say nothing of schools' willingness and ability to work with NASP®. Even IBO's August 24 letter repeatedly admits IBO is proposing a "*different rule*" for dealing with male and female participation.
- h. IBO's rule change upends the rules and procedures for eligibility, participation, sportsmanship, and protests discussed above, to say nothing of

¹ Even the interpretation and application of federal laws like Title IX vary from jurisdiction to jurisdiction, and new "Biden-Harris" regulations for enforcing Title IX have not, contrary to what IBO suggests, been struck down by the Supreme Court.

the longstanding and express purposes of NASP® and its approach to educating and developing students through archery in schools. The change would defeat the core purpose of the parties' agreement: to provide a program that is a safe and welcoming archery experience for NASP® students. There is no way to repair the damage that would be done to NASP® and its programs if IBO implements this change.

- i. IBO's rule change severely undermines and deprives NASP® of its ability to operate across the nation and in other countries in a way that ensures compliance with each jurisdiction's laws, rules, and policies on civil rights.²

NASP®'s position on the IBO's rule change is not a matter of ideology. It is a recognition of the realities NASP® must navigate across a variety of jurisdictions and, importantly, the express and essential terms and purposes for creating the 3D Challenge, as stated in the parties' September 2019 agreement. As a result, IBO may *not* implement its new rule at the 3D Challenge without NASP®'s consent. If IBO does implement the rule at NASP®/IBO 3D Challenge events, it will be a material breach of the parties' agreement, grounds for immediate termination, and prohibitive of IBO participating in any events presented by NASP® going forward.

III. The IBO does not have exclusive rights to the 3D Challenge.

Regardless of when the parties' relationship ends, the IBO's claim to exclusive rights in the 3D Challenge is misplaced. As reflected in the September 2019 agreement, the parties *cooperatively* designed the 3D Challenge. *Both* parties were present and engaged in in-person and online meetings to create the 3D Challenge, including the format used for the Challenge. As reflected in the parties' agreement and elsewhere, IBO's contributions to the Challenge would not have been possible without significant financial and intellectual support from NASP®. As a matter of fairness and the express terms of the September 2019 agreement, the parties each own *equal* rights to the 3D Challenge and therefore *both* parties may continue to use the 3D Challenge in their own names and for their own purposes after the parties' agreement terminates in October 2025. Until then, the Challenge will continue to be presented jointly under *existing* rules.

IV. Expectations for the upcoming year.

For reasons discussed above, none of the options laid out in IBO's August 24, 2024 letter are either viable or acceptable. Some options outlined by IBO appear to be based on the hope that no one attributes the rule change to NASP® or an apparent willingness to "spring" the rule on unsuspecting students *after* the scores have been tallied and winners announced. IBO's rhetoric and tone in recent weeks, its decision to resort to personal attacks on NASP®, and its unfounded claim to exclusive rights to the 3D Challenge cast serious doubt on whether IBO is approaching this matter fairly and in good faith.

² Even the application of federal equity laws like Title IX varies between jurisdictions, to say nothing of the differences in equity rules and laws at the state and local levels.

The fact the parties have reached an impasse after all these years is unfortunate, but it does not have to impair the upcoming season. In the following months, we believe it is important for both organizations and the students we serve to maintain a respectful and professional relationship. We believe that neither organization should engage in actions or communications that could be considered disparaging to the other. Should IBO choose to engage in such conduct, NASP® reserves the right to terminate the agreement immediately and have no responsibility for any financial obligations IBO may have incurred.

Again, please contact me at your earliest convenience to discuss details for the parties' transition. In the meantime, please don't hesitate to contact me if you have any questions. Please know, however, that NASP® is steadfast in its commitment to the path forward that's outlined above.

Sincerely,

A handwritten signature in cursive script that reads "Thomas G. Floyd".

Thomas G. Floyd, Ed.D.
NASP® President

Enclosures: September 19, 2019 agreement
 Bryan Marcum August 24, 2024 letter

Cc: Larry Kade, Secretary and IBO Tournament Director