



March 2, 2017

Ms. Shellie Pfohl, Chief Executive Officer
U.S. Center for SafeSport
1385 S. Colorado Boulevard
Suite A-706
Denver, Colorado 80222

RE: Response to Letter of February 28, 2017

Dear Ms. Pfohl:

Thank you for your letter of February 28, 2017, responding to our letter critiquing the SafeSport procedures that were distributed on December 30, 2016. You wrote that we are now in agreement on many issues and that the final version of SafeSport to be introduced this week will also meet our concerns. However, we are still unclear as to many SafeSport policies, and cannot agree that SafeSport will turn the corner on an environment that currently endangers children. As we have learned from other institutional settings where sex abuse is rampant, the culture of adult-protection and prioritization must be taken apart, and substituted with a system that protects children first. The following is a brief response to each of your points.

1. Your response did not satisfactorily resolve SafeSport's independence from the USOC, NGBs and Coaching Associations.

We listed three areas of necessary SafeSport independence: 1) governance, 2) UOSC/ NGB defense counsel, and 3) the arbitration process. Your response addressed the final two; the firewall you have in place between SafeSport attorneys and USOC/ NGB/ Coaching Associations, and for the arbitration process. However, as we detailed in our earlier letter, SafeSport governance must have overarching and intentional independence from the Olympic Movement. Attorneys, coaches and administrators that work for the USOC/ NGBs a few months prior to moving to SafeSport cannot create a sports system that protects athletes first. Because there are few equivalent employment opportunities representing the interests of athletes outside the USOC, the trend will be to represent the interests of the USOC/ NGB/ Coaching Associations. Given that SafeSport is housed and funded by the USOC, there must be concrete and bright line distinctions between employment as a SafeSport attorney, agent or staff member and in the USOC, an NGB or a Coaching Association.

2. Your response did not satisfactorily address whether all adults involved and all athletes participating in the sport are covered by SafeSport.

You write that the Center's jurisdiction broadly includes "any individual who ... currently is, or was at the time of a possible SafeSport Code Violation, within the governance or disciplinary jurisdiction of an NGB." But again the answer is self-referential and circular. Please clarify: who, exactly, is "within the governance or disciplinary jurisdiction"? We are advocating that SafeSport jurisdiction include all NGB and Coaching Association members, and we hope you agree.

3. Your response confirmed that SafeSport will not uphold uniform standards prohibiting sexual misconduct.

You state that “The Center will enforce prior NGB rules for sexual misconduct preceding the Code’s effect date or for proactive policies.” This answer confirms our worst fears; SafeSport will be enforcing 47 different sets of rules, now and into the foreseeable future. Just as troubling, for some NGBs, abuse will only be addressed in the future. SafeSport is needed because NGB policies and enforcement were inadequate. As a result, thousands of athletes have been harmed. For example, many NGBs did not flatly ban all romantic and sexual relationships between coaches and athletes until the USOC Board of Directors passed a resolution requiring NGBs adopt the rule, or forfeit their Sport Performance money... in 2014. If these rules are prospective only, SafeSport is a small band-aid for a gaping wound.

4. Similar to #2, your response did not satisfactorily define who is prohibited from having romantic and sexual relationships.

The December 2016 Draft only prohibited “Covered Individuals” from these romantic and sexual relationships with athletes, without defining who was a “Covered Individual.”

If SafeSport intends this provision to cover employees or those under the direct control of an NGB, such as USA Swimming’s Everett Uchiyama, or USA Gymnastics’ Dr. Nassar or the Karolyis, this is not a stretch. As their employer, NGBs already owe their athletes a duty to protect them from known risks of harm like sexual abuse. But if, as we are hoping, a “Covered Individual” is a club coach who is a mere member of an NGB or is a member of their sport’s Coaching Association, then we applaud SafeSport’s position.

5. SafeSport has the authority to require its members to report suspected child abuse, regardless of state-mandated reporting laws, and should do so.

We are glad that you agree with us that SafeSport jurisdiction is triggered by a report from anyone about suspected abuse of an athlete. This will protect many third-parties harmed by a violation of SafeSport policies.

But you then used the same cop-out that the Catholic Church used in the midst of its clergy abuse scandals: “...the reporting requirements [SafeSport] imposes do not supersede any legal requirements (which vary from jurisdiction-to-jurisdiction) to report crimes to law enforcement.” The bishops knew and SafeSport should know that most of the states *do not require* their employees to report abuse to the authorities. Because few states make club coaches mandated reporters, the SafeSport policy on reporting to the authorities is all show with no teeth. SafeSport can and should require reporting child abuse to the authorities *whether or not the state requires it*.

6. While a victim may have the ability to delay their involvement in an investigation as needed, SafeSport owes a duty of safety to the entire sports community.

If there is a report that a coach or another adult in the system has abused an underage minor, SafeSport should investigate that coach or other adult, whether or not a particular victim is able to participate. As we noted earlier, oftentimes the victim is not necessary to find the abuser violated SafeSport policies if, for example, the abuse was witnessed by another adult. Moreover, most child abusers pursue multiple children over the course of their lives, and are typically skilled at getting the victim to remain quiet. SafeSport owes a duty of safety to the whole sports community, not just one identified victim.

We agree with the concern for trauma to a particular victim, but the safety of all the children must be taken into consideration. We agree that SafeSport can have the discretion to *delay* the participation by an alleged victim in an investigation, consistent with ATIXA’s recommendation, as needed, but SafeSport should not use a victim’s unwillingness or incapacity as an excuse to ignore the complaint altogether.

7. We disagree that SafeSport cannot or should not prohibit coaches from spending time alone with an athlete.

We stated that “no child should be alone with sport personnel, unless it is a family member or legal guardian.” As your letter states, the CDC’s “Preventing Child Sexual Abuse Within Youth-serving Organizations: *Getting Started on Policies and Procedures*” endorses choosing among options for “one-on-ones,” and that making supervision a mandatory policy at all times is a viable option. This is an easy, bright-line rule that SafeSport needs to adopt to protect children from predatory adults. We are not suggesting an athlete may not have a one-on-one conversation or instructional session. Rather, they cannot do so *alone*. That means it cannot be behind closed doors or alone in a car; the one-on-one needs to occur in public or within the vicinity of other adults. We agree that context matters for child protection, but the principle cuts the other way: the amount of abuse that has happened to children in private, behind closed doors, is incalculable. This simple rule requires some reorganization of how sports are dealing with children, but it is a necessary move that has already been adopted by schools and pediatric offices. It’s not too much to ask of sports.

8. Child sexual abusers should carry a mandatory presumptive punishment of banishment from the sport.

Safesport declines to adopt our suggestion that sanctions should be pre-determined for particular offenses, like child sexual abuse, where we recommended a mandatory sentence of removal from sport. Without this presumption, abusive coaches are very likely to end up continuing to coach. A recent study found that teachers who committed child sexual abuse still ended up in the classroom. Students found to have violated their school’s code of conduct for sexual abuse were largely not expelled. Most rapists do not serve a day in prison. SafeSport’s embrace of discretion, rather than a rebuttable presumption, runs the risk of backsliding into familiar relationships, those that serve the interests of the adults and not the children.

Thank you again for your response, and we look forward to working with you, Safesport, policymakers, lawmakers, and others to change the culture in sport that has endangered children and permanently scarred amateur athletes, whether they play just for the fun of it or for an Olympic medal.

Sincerely,

Nancy Hogshead-Makar/ es

Champion Women

Marcy A. Hamilton/ es

CHILD USA