



March 7, 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 March 6, 2017

Dear Ms. Pfohl:

Thank you for your letter of March 6, 2017. There is no question that we are united in the determination to prevent the abuse and neglect of young athletes that has occurred across numerous sports, including gymnastics, judo, track and field, swimming, speed skating, volleyball, tennis, and taekwondo, among others. As we have stated from the outset, we applaud the SafeSport initiative; indeed, Nancy Hogshead-Makar has been advocating for the creation of an independent entity to investigate and sanction sexually abusing coaches and others for many years now. Professor Hamilton has been dedicated to crafting the best legal and organizational policies to protect children from abuse and neglect for decades. Yet, as experienced lawyers and experts in the field of child abuse, we have shared with you legitimate concerns, which are due in part to unclear language as well as honest disagreement on best practices. The following is a brief summary of our continuing concerns and some suggestions. We welcome a dialogue on these issues as SafeSport goes forward.

1. **Independence.** We understand that SafeSport Board and staff will only be working for the new organization. Still unaddressed: What are the rules regarding SafeSport employment of those who have previously been affiliated with the organizations that SafeSport will be investigating? It is our view that “independence” is only achieved if former USOC/ NGB and Coaching Association employees or consultants have at least a two-year separation time before employment or engagement with SafeSport.

2. **Covered individuals.** We are pleased to see that “anyone and everyone” involved with sport is covered; this is precisely the type of clarification we have been seeking. We are sure you share our delight that Senator Feinstein’s proposed legislation, the *Protecting Young Victims from Sexual Abuse Act of 2017*, takes the same broad stance.

3. **Uniformity and retroactivity.** We are at a loss to understand how uniformity of rules can be derived from the language in SafeSport documents. The policies also state that the rules are prospective, but your recent letter backtracks on that, saying that you will accept cases from any era. That’s great ... we hope!

Our experience tells us that policies that are prospective only, or that fail to take into account cases from years earlier, work to the advantage of the abuser. For example, when former swimmer Michele Kurtzman Greenfield turned 50 years-old, she reported her childhood sexual

abuse by Hall of Fame coach, Murray Stephens. When Stephens was confronted, he walked out of his job coaching national-level swimmers for more than 30 years, *that day*, and never returned to coaching.

Even though USA Swimming had already started its own SafeSport with Susan Woessner as its head, no one from the NGB called her. When Stephens was not expelled from USA Swimming, Kurtzman Greenfield informed the NGB that she had more information about other victims and his *modus operandi*. After Kurtzman Greenfield initiated discussions, Woessner's response was that Swimming would not investigate Stephens because 1) she did not file a police report and because 2) her abuse occurred prior to the founding of USA Swimming, when the sport was still run by the AAU. Because USA Swimming refused to act, Stephens was in tuxedo on stage as the Master of Ceremonies at the swim club's fundraiser just six months later, with young girls all around. Stephens is still a member of the International Swimming Hall of Fame, and the Swimming Coaches Hall of Fame. So while USA Swimming's written policies stated "no statutes of limitations" – just like the U.S. Center for SafeSport – Swimming used the excuse, "we cannot enforce rules retroactively" to allow Murray Stephens to remain in good standing with USA Swimming. It is direct experiences like this, working with victims of sport and NGB sport policies, which inform our policies and positions, and may explain our continuing requests for clarifications.

While we agree that a court may not enforce a *substantive* standard retroactively, SafeSport can institute *procedural* changes retroactively. As such, we urge SafeSport to address sexual abuse that occurred decades ago, whether or not the USOC, NGB, AAU or other sport-organization had a specific rule regarding child sex abuse; it has always been a crime. Given SafeSport's stated policy of "no statute of limitations," SafeSport should address the vast majority of claims in sport. This policy, if carried out in practice, will enable SafeSport to identify hidden predators among our young athletes in the United States.

4. Romantic relationships. We wholeheartedly support the position you have taken that all covered individuals are prohibited from entering into relationships with a power imbalance.

5. Mandatory reporting. The language on mandatory reporting is needlessly confusing, but if every adult must report suspicions or allegations of child abuse or neglect to both the Office and appropriate legal authorities, *whether or not the state or federal government requires the report*, our concerns are satisfied.

Moreover, we assume you are as delighted as we are about the legislation the Senator Feinstein recently proposed, that establishes criminal penalties for those who fail to report sexual abuse in club athletic settings.

6. Investigations without a victim's cooperation. We agree that the welfare of the victim is the first concern, especially a child. But we reiterate that each individual allegation potentially implicates the safety of other athletes and participants. Frequently there will not be evidence of "pattern, predation, threat, and use of weapons and/or violence" *until the matter is investigated*. We urge SafeSport to adopt a *presumption*, based on the best research available, that where there is smoke there is fire and to pursue investigations involving apparently singular claims of sex abuse.

7. Alone time with athletes. Senator Feinstein's proposed statute would settle this issue in our favor, prohibiting Covered Adults from alone-time with athletes. In addition, we suggest SafeSport adopt a presumption that no covered adult may spend time alone (not merely one-on-one) with a child. The burden should then rest on the relevant NGB to justify the need for

such alone time in the particular sport. Moreover, NGBs that permit covered adults to be alone with children should be required to notify parents and guardians of the potential risks, drafted by experts in the field.

8. **Sanctions for child sexual abuse.** We are glad to see that you agree with a bright-line rule of expulsion of any covered adult who sexually abuses a child. We applaud that policy, and look forward to seeing SafeSport implement it.

Thank you again for this continuing dialogue. Again, 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

Champion Women

Marci A. Hamilton

CHILD USA