



**A Plea for Congressional Intervention
Into the Athlete Protection Systems of the
United States Tennis Association**

Respectfully submitted by:

Marci A. Hamilton, Esq., CEO, CHILD USA
Nancy Hogshead, Esq., CEO, Champion Women
Robert Allard, Esq., Corsiglia, McMahon and Allard, LLP

Table of Contents

About the Authors.....	3
Introduction.....	4
The USTA Resisted the USOC’s Efforts at the Time to Protect Athletes from Sexual Predators.....	5
The USTA Refused to Publish a List of Known Predators, Leading to the Savage Molestation of at Least Two Boys.....	6
The USTA Failed to Ban Coach/Athlete Relationships, Which Enabled a Toxic Culture and the Sexual Assault of Kylie McKenzie.....	9
USTA and Ms. Mischel Have Attempted to Silence Pam Shriver.....	12
Similar to its Investigations into USA Swimming and Gymnastics, Congress Needs to Investigate How USTA Continues to Endanger Athletes.....	12
Conclusion.....	14

About the Authors

Marci Hamilton



Attorney and University of Pennsylvania Professor Marci Hamilton is the founder and CEO of CHILD USA, a nonprofit academic think tank devoted to the improvement of laws and public policy to end child abuse and neglect. Professor Hamilton is the leading expert on child sexual abuse statutes of limitations, has advised legislators in every state where such reform has occurred, and has been a leader in the movement to make institutions that have covered up child sex abuse accountable. She served as the Chair of the Game Over Commission for Youth Athletes, the only independent, expert assessment of why every institution that should have protected the girls failed them, permitting Larry Nassar years of cruel abuse. <https://childusa.org/gameover/> She has filed countless pro bono amicus briefs for the protection of children at the United States Supreme Court, as well as the state supreme courts, and has received numerous honors and awards for her devotion to public advocacy.

Nancy Hogshead



Attorney Nancy Hogshead is an internationally recognized legal expert on sports issues, including sexual harassment, sexual abuse and assault. She is the founder and CEO of Champion Women, an organization devoted to advocating for and providing legal expertise to girls and women in sports on topics that include sexual harassment, abuse and assault in sport, to implement change within the organizations. Ms. Hogshead has received countless awards for her commitment to the betterment of athletics, including being named one of the most influential people in the history of Title IX and induction into the International Scholar-Athlete Hall of Fame.

Robert Allard



Attorney Robert Allard devotes his professional energies to representing survivors of sexual abuse. His decade-long representation of survivors against USA Swimming starting in 2009 was the launching pad for exposing the sexual abuse epidemic which had been plaguing the Olympic movement for decades. Through his work, awareness of predators in sport has increased, athlete protection systems are stronger and an independent body for addressing sex abuse claims (US Center for Safe Sport) was created. Further, state and federal laws benefitting survivors have been enacted, including extending filing deadlines, creating a heightened duty or “special relationships” between National Governing Bodies and its athletes and prohibiting confidential settlements where children are sexually abused.

Introduction

In an era when sporting organizations are on clear notice that children and young adults are at risk of sex abuse and assault in sport, and that they need to institute effective programs to prevent athlete sex abuse and assault, no National Governing Body (NGB) should be permitted to ignore their duty to protect athletes from sexual abuse. United States Tennis Association (“USTA”), the NGB for the sport of tennis, remains stuck in the past, which makes it dangerous to athletes, as it prioritizes profits over athletes. USTA’s signature event, the United States Open, alone generated over \$500 million in 2023 and yet seemingly little, if any, of that money is being devoted to implementing procedures and programs designed to better prevent predators from getting access to and sexually assaulting athletes. Compounding matters, USTA is well aware that tennis attracts abusers, when the sport affords extended one-on-one access to, primarily, young women.

Since 2002, 52 abusive tennis coaches or officials have gained access to and sexually abused tennis athletes. Experts know well that many victims of abuse never come forward, and the number of reported perpetrators within USTA is likely just a fraction of the actual abuse. Abusers must find the sport an attractive venue.

Despite this knowledge, USTA has *scaled back* athlete protection policies based on fears of liability. USTA general counsel Staciellen Mischel initiated the retreat from improving measures to protect tennis players. USTA and Ms. Mischel went so far as to actively oppose efforts made by the United States Olympic Committee (“USOC”) to protect athletes from sex abuse during the #MeToo movement and in the midst of sex abuse within other NGBs including gymnastics, swimming, and taekwondo, among others. **USTA and Ms. Mischel’s actions are reminiscent of the many instances of covering up child sex abuse across the culture. As in the other contexts, silencing victims and deflecting the truth paved the way for abusers to abuse and assault others. In this case, at least three (3) athletes were abused by their respective coaches after 2014.** Considering that there are currently over 680,000 USTA individual members and over 7,000 tennis organizational members, and thousands of active athletes, it is incumbent upon Congress to launch an investigation into USTA’s failure to protect

athletes, just as it did with gymnastics. The U.S. Olympic and Paralympic Committee will not hold USTA or Ms. Mischel accountable. USTA's and Ms. Mischel's persistent failure to protect athletes requires legal action to ensure it is held accountable for the preventable harm to these athletes and to change its policies so that future athletes are safe.

I. THE USTA RESISTED THE USOC'S EFFORTS AT THE TIME TO PROTECT ATHLETES FROM SEXUAL PREDATORS

Coaches sexually abusing athletes have been given wide latitude for decades within the Olympic movement. **Exhibit 1** is a summary of USTA members (mostly coaches) who have sexually abused athletes. In 2010, the USOC¹ notified all 48 NGBs, including USTA, of the need to immediately strengthen child protection measures after a series of sex abuse allegations arose. After consulting with various experts in the field, the USOC presented its recommendations to the NGBs to make them safer. USTA refused to follow these recommendations.

In late 2012, the USOC again reiterated the need to strengthen athlete protection measures in light of the "crisis" of coaches molesting minor athletes. USTA once again did not listen. As a result, the USOC was forced to *mandate* that USTA implement minimum standards. USTA protested vociferously, telling USOC's then-CEO and lawyer Scott Blackmun that the proposed changes were problematic, because they would increase liability exposure for the NGBs:

Scott, you are undoubtedly aware that by creating these minimum standards for all NGBs the USOC is not only creating new exposure for itself, but also for NGB's who would be required to revamp their existing programs to comply with the vague and controversial minimum standards proposed to the USOC Board. (**Exhibit 2**).

USTA did not stop there. As reported by the New York Times (see [A Tennis Coach Was Abusing Minors. Should the Sport's Federation Have Known? - The New York Times](#)

¹ The USOC is a federally chartered nonprofit corporation whose central function is to coordinate amateur sports throughout the country for athletes hoping to one day compete in the Olympics. In this role, USOC certifies and oversees each sport's national governing body, the entity responsible for conducting and administering the sport in the United States.

[nytimes.com](https://www.nytimes.com)), USTA attended a USOC Board meeting in Chicago to personally oppose its athlete safety measures. USTA is one of two, out of 48 total NGBs (USA Softball was the other), to protest the proposed changes, with the remaining 46 supporting the movement. USOC meeting minutes reveal:

USTA does not believe a single mandatory national entity is the best way to approach the issue. [USTA] shared [its] reasoning and concerns with the Board and recommended that the initiative move forward in a manner that enables a National Governing Body to opt out of the centralized structure if that entity meets specified Safe Sport related standards on its own. (**Exhibit 3** at p.3)

The USOC persisted and used its authority to force USTA to implement minimal protection systems. USTA, however, has continued to be a critic of those who suggest higher standards for abuse prevention and victim support while it regularly generates annual revenue of over \$330 million.

II. THE USTA REFUSED TO PUBLISH A LIST OF KNOWN PREDATORS, LEADING TO THE SAVAGE MOLESTATION OF AT LEAST TWO BOYS

USTA hired Normandie Burgos as a tennis instructor for its National Junior Tennis League in San Francisco, CA in 2004. In 2006, USTA quietly fired Burgos upon learning of accusations involving the sexual abuse of minor tennis players. It was also widely reported at the time that Burgos was fired from his position as a coach and teacher at a local high school for the same reasons. USTA did not, however, warn any parents of the youth members it knew were under the care of Burgos at the time. Nor did USTA suspend Burgos's membership status or restrict his access to children despite knowing that Burgos operated a member organization called the "Burgos Foundation" through which Burgos was afforded unlimited access to adolescent boys. Rather, USTA ignored the patterns of sex abuse it could plainly see, endangering one athlete after another.

One of the USOC recommendations included automatically disqualifying from membership anyone who had been terminated from employment due to allegations of childhood sexual abuse. (**Exhibit 4** at 000275.) The USOC also urged each NGB to publish a list of persons

suspended from the sport and/or provide notification to the parents of the same. (**Exhibit 5** at 000372.)

USTA did not make those reports but rather scoffed at the notion it should publish anything or notify anyone about known predators. Why? In 2015, USTA and Ms. Mischel revealed their self-interest behind the refusal to publish – an unfounded fear that, by banning accused coaches, USTA would be sued for defamation and libel. The following is part of a series of exchanges between the USOC and the USTA as to specific proposed changes by the USOC on the left with Ms. Mischel’s “comments” in the margin to the right. (**Exhibit 6** at USTA0000389).

(i) **Other sanctions**

Additional or alternate sanctions may be created and designed as deemed appropriate to the offense. Other sanctions may include listing on a publicly-available permanently or temporarily ineligible member participation list.

Notice of the Center’s preliminary conclusion and recommended sanctions

Comment [A46]: DON’T AGREE WITH THIS – WILL RESULT IN LIBEL CLAIMS

Comment [A47]: The Center must indemnify the NGB or PSO with respect to the ban list.

In March 2014, Burgos was arrested for the second time for childhood sexual abuse. A “maltreatment” report was formally submitted to USTA by the victim’s mother shortly thereafter. In response, the USTA finally banned Burgos, but did not, per USOC’s mandate, place his name on a public list or notify any of the dozens of parents it knew had children who had been under the care of Burgos. Rather, Ms. Mischel orchestrated a cover-up by issuing an internal memorandum amongst USTA officers and lawyers that reasoned that USTA’s interests were protected by prohibiting Burgos from attending USTA events, but as far as his engagement with USTA youth members, “though this is a sensitive matter, all information regarding this matter should be handled with care and treated as confidential” in the following document: (**Exhibit 7**).

Archived: Friday, October 2, 2020 2:42:34 PM
 From: [Mischel, Staciellen](#)
 Sent: Thu, 7 Aug 2014 19:21:00 +0000
 To: [Leube, Steve](#) ← Director of USTA Northern California's Regional Arm, "NorCal USTA"
 Cc: [Cooke, Michael](#) [Booth, Rachel](#) [Kittelstad Tracy, Lauren](#) ← USTA in-house paralegal
 Subject: Confidential Communication ← USTA in-house lawyer
 Sensitivity: Normal ← President of NorCal USTA
 Attachments:
[Burgos Richmond PD 8-7-2014.pdf](#)

Steve, I have attached hereto a revised correspondence that we received today from the Richmond PD. This correspondence indicates that Mr. Burgos is being investigated by the Richmond PD for an allegation of sexual conduct with a minor.

As you know, the USTA reserves the right under Safe Play to suspend an individual's participation in any USTA Sanction tournaments, event, or program until said investigation is concluded.

Effective today, the USTA is suspending Mr. Burgos' right to participate in any USTA tournaments, event or programs.

In as though this member resides within the geographic area, it will be essential that your Sectional Association take all steps necessary to ensure that he complies with this suspension. Lauren will send you a copy of the notice to be issued to Mr. Burgos of the suspension.

Please understand in as though this is a sensitive matter, all information regarding this matter should be handled with care and treated as confidential.

If you have any additional questions or concerns, please do not hesitate to contact Lauren or our office.

Best Regard,

[Staciellen Stevenson Mischel](#)
 Associate General Counsel & Deputy Chief Legal Officer
 United States Tennis Association Incorporated
 70 West Red Oak Lane
 White Plains, New York 10604
 (P) 914-697-2330
 (F) 914-696-7089
Mischel@usta.com

Ms. Mischel's logic echoes the stance taken when USTA quietly fired Burgos years earlier: "Let's get him out of our hair so that we will not incur any liability. I only care about the interests of the USTA. Let's not warn anybody else because he may come back and sue us. We place more priority on protecting ourselves from libel suits than protecting children from a likely predator. So, keep quiet and do only what you need to do internally to ensure that he does not cause problems for us." This is precisely the attitude that has subjected children to repeat offenders across the culture. When the institution takes the position that it's all about them, more children get abused.

USTA knowingly released a wolf amongst unprotected sheep. It enabled a serial sexual predator to groom naïve children/USTA members who wanted nothing more than to please a coach who could get them to college and beyond. Parents trusted Burgos because he seemed to be sanctioned by the USTA and they were not apprised of his danger to their children. They assumed that, if there was an issue, USTA would have told them as they were all established USTA members who dutifully paid their dues each year and trusted the organization.

As a direct result of Ms. Mischel's decision to keep the parents in the dark regarding Burgos, he molested at least one other boy over three hundred (300) times over a four-year period. See [A Tennis Coach Was Abusing Minors. Should the Sport's Federation Have Known? - The New York Times \(nytimes.com\)](https://www.nytimes.com/2016/06/27/sports/tennis/usta-coach-burgos-sexual-abuse.html). A jury found Burgos guilty of 60 counts of child molestation, and he was sentenced to 250 years in prison.

III. THE USTA FAILED TO BAN COACH/ATHLETE RELATIONSHIPS, WHICH ENABLED A TOXIC CULTURE AND THE SEXUAL ASSAULT OF KYLIE MCKENZIE

The USTA has steadfastly refused to prohibit romantic relationships between coaches and athletes. USTA does not want there to be any impediment to this kind of relationship as they believe that coaches dating players is part of the fabric of tennis. When the USOC pressed USTA to issue a simple ban on romantic relationships between coaches and athletes, USTA resisted such a change, because so many athletes were dating coaches, without regard to the safety of its athletes, as the notation of the proposed policy shows:

B. Imbalance of power

An imbalance of power exists where one person in a relationship holds a superior position of power over the other. Consent is not possible if the relationship involves an imbalance in power. For example, a young person can never consent to conduct with an adult as an adult always holds a position of power over a young person. Factors relevant to determining whether there is an imbalance of power include but are not limited to the:

Comment [RB6]: This is not realistic in tennis- at the highest levels MANY female players date their own or other coaches- f imbalance could go either way - e.g. hugely successful player

As a result, the age of the coach and athlete is not relevant, both during coaching and during that period following coaching if an imbalance of power could jeopardize effective decision-making. Coach-athlete romantic relationships are should be prohibited regardless of whether the relationship leads to sexual contact.

Comment [A26]: Not always the case in Tennis – many pros dating former pros that are their coach – sometimes same age.

(C) Exceptions

(C) Exceptions

An imbalance of power is not presumed in the coach-athlete relationship if there is a preexisting relationship between two spouses or life partners.

Comment [RB7]: Again- there are many instances of tennis pros currently dating their coaches-not realistic for tennis just to carve out exception for pre-existing relationships-how can we address?

(D) Examples

Examples of prohibited relationships may include but are not limited to:

(Exhibit 8 at p. USOPC-USTA-00000901, 00000908.)

When asked under oath to identify the alleged “many” players who desired to date their coaches, USTA identified only *one*--Serena Williams, arguably the best player in the history of U.S. women’s tennis, if not the world.

Thus, while other sports organizations in this country were responding to the sex abuse epidemic by developing restrictions and boundaries on a coach’s interactions with athletes, USTA insisted on employing antiquated measures, which gave coaches like Anibal Aranda a green light to make sexual advances towards their athletes. Consequently, Mr. Aranda, like dozens of other tennis coaches before him, felt empowered enough to brazenly sexually harass and assault Kylie McKenzie at USTA’s national campus in Orlando, Florida. See [Kylie McKenzie Speaks Out Against a Former U.S.T.A. Coach - The New York Times \(nytimes.com\)](#). Coach Aranda’s behavior is the byproduct of a perverted culture maintained by USTA.

It is therefore no wonder why USTA royalty such as Judy Murray, mother and coach of Andy, has complained that young women who start off on tour are particularly vulnerable to sex

abuse by their coaches (See [Tennis is due its own #MeToo moment, Judy Murray says | Judy Murray | The Guardian](#)). Ms. Murray states:

I think anybody would tell you that there are examples [of female players being sexually abused by their coaches]. I think that everybody who's on the circuit would be able to name something that is not quite right. **It's very easy for a young inexperienced woman to be taken advantage of.** . . I would certainly advocate for anybody who has been a victim of abuse in that coaching relationship to speak about it.

The highest authority in this area, however, comes from a woman who arguably has done more for the sport of tennis over the past several decades than anyone – 21-time major champion, tennis's most trusted commentator and revered Hall of Famer, Pam Shriver. Recently, Ms. Shriver shared that she was involved in a lengthy “romantic” relationship with her much older and married coach starting when she was a minor. Now, she wants to be the voice of change and in furtherance thereof has made the following public comments:

- I believe abusive relationships are alarmingly common in sport as a whole. My experience, though, is in tennis where I have witnessed *dozens* of instances in my four and a bit decades as a player and announcer. (see [Abusive coaching relationships alarmingly common – Pam Shriver | Sports | Jamaica Gleaner \(jamaica-gleaner.com\)](#), emphasis added)
- At that point (when the relationship was ongoing), safeguarding for young female players, was like, non-existent. I really didn't know where to turn to. (see [Hall of Fame tennis player Pam Shriver says she was in 'inappropriate, damaging' relationship with her coach when she was 17 - ABC News \(go.com\)](#))
- The point has to be made very clearly- these kinds of relationships are not appropriate, and there will be consequences for those who cross the line. This is a *widespread problem* and we need a broad-spectrum alliance if we are going to address it. (see [Tennis: Pam Shriver on inappropriate relationship with older coach \(tennismajors.com\)](#), emphasis added)
- I spoke up because I hoped to make a difference. Part of my intention was to warn players directly about the dangers of mixing personal and professional lives. Above all, I wanted the tennis authorities to step up and protect them - because when you're a young athlete, often separated from friends and family from an early age, you're so vulnerable to exploitation. (see [Pam Shriver: Revealing my abuse story was a light bulb moment – now more players must speak out \(telegraph.co.uk\)](#))

- For me, this appointment is a sign that *the Tour realizes it has looked the other way for too long*. Imagine if, one day, every female player raised their hand and told their part of tennis’ “MeToo” story. There’s probably a few of us, used to the sketchy realities of life on tour, who would be saddened rather than shocked by the numbers involved. But most outsiders would be thinking, “Really? It’s that prevalent? I had no idea we were talking about so many. (Id, emphasis added)

IV. USTA AND MS. MISCHER HAVE ATTEMPTED TO SILENCE PAM SHRIVER

Pam Shriver publicly revealed her story on April 20, 2022. Shortly thereafter, on June 6, 2022, Ms. Shriver attended a USTA Foundation fundraiser in Los Angeles in her personal capacity. Ms. Mischer surreptitiously made it a point to also be in attendance. As Ms. Shriver left the event to pick up her kids, Ms. Mischer quietly followed from behind. Ms. Mischer then proceeded to provide Ms. Shriver with unsolicited advice to “be careful” as it relates to her participation in Kylie McKenzie’s litigation.

To be sure, Ms. Shriver’s testimony would be damaging to the interests of USTA, but a boon to the bigger issue of safety of athletes. Ms. Mischer was trying to prevent a jury from hearing from the highly respected tennis champion that USTA all too often “looked the other way” when it came to rampant abusive coach/athlete relationships. Again, it was USTA liability that motivated Ms. Mischer, just like her actions with serial abuser Burgos; Ms. Mischer sought Ms. Shriver’s assistance in the USTA cover-up.

V. SIMILAR TO ITS INVESTIGATIONS INTO USA SWIMMING AND GYMNASTICS, CONGRESS NEEDS TO INVESTIGATE HOW USTA CONTINUES TO ENDANGER ATHLETES

In 2018, the House of Representatives through the House Committee on Energy and Commerce launched an investigation into USA Swimming’s handling of sex abuse matters. The Committee also sent letters of inquiry to USA Gymnastics. As a result of Congress’s intervention, a wide range of measures were adopted by these NGBs, particularly USA Swimming, including a new standard pertaining to the hiring and supervision of coaches, and the implementation of training to educate members on how to detect and deter coaches from grooming and sexually abusing minor athletes. Further, members of USA Swimming’s “old guard” who, like tennis, did

not hesitate to protect and cover up for popular abusive coaches such as notorious predators Andy King, Mitch Ivey, Everett Uchiyama and Rick Curl, were removed from sport. These USA Swimming executives included Director Pat Hogan, General Counsel Richard Young, and Safe Sport Coordinator Susan Woessner.

The authors of this piece were intimately involved in the USA Swimming sex abuse scandal. Ms. Hamilton and Ms. Hogshead, a swimmer and gold medalist winner in the 1984 Olympic games, spearheaded legislative efforts to make children safer in sport through, for example, the creation of the *Protecting Young Victims from Sexual Abuse Act*, which classified every person in the Olympic movement as mandated reporters who are legally obligated to make a report to the United States Center for Safe Sport when reasonable suspicion of childhood sexual abuse is formed. Further, Mr. Allard represented the swim sex abuse victims, who were subjected to Swimming's scorched-earth litigation tactics from 2009-2018 during which hundreds of depositions were taken that proved the existence of a system of abuse that was being routinely exploited by sexual predators to victimize swimmers.

All three authors agree that the USTA has handled sex abuse claims far below industry standards, resulting in dangerous conditions for athletes. The cover up of athlete sex abuse and assault is endemic in sports, but USTA is particularly problematic because of its brazen refusals to reform in the interest of the athletes, all to protect itself from well-deserved liability. USTA is following in the footsteps of many institutions before it that have resisted transparency and youth safety so as to preserve their image and finances. While USTA plays off of its Billy Jean King-like image it is invested in burying sex abuse complaints and cowardly looking the other way even though coaches are sexually abusing athletes. It is yet another example illustrating the wisdom of Martin Luther King's statement:

He who passively accepts evil is as much involved in it as he who helps to perpetrate it. He who accepts evil without protesting it is really cooperating with it.

USTA's organized efforts not only resulted in a cover up, but also served to dissuade survivors from speaking out and obtaining justice. This has created a dangerous and unhealthy

culture within the sport of tennis that needs changing now. Rather than support victims, USTA has chosen to silence them through threats and intimidation to serve its end of avoiding liability at all costs. This attitude was documented in a recent New York Times report by Matthew Futterman (see [Amid U.S. Open Fanfare, U.S.T.A. Fights Questions of Its Handling of Sexual Abuse - The New York Times \(nytimes.com\)](#)). As a result, USTA has been harshly criticized for the manner in which it retaliates against victims such as Ms. McKenzie--as well as their family members--who sue them for the harm USTA has inflicted.

The following is a sampling of how USTA uses litigation to abuse and harass victims and even their family members by asking the following questions:

- (To Kylie McKenzie) It says, Patient was taking birth control, but her body did not handle them well. Did you – did you stop taking your pills, and that’s what caused this situation? (**Exhibit 9** at 97:11-14)
- And then had you recently taken the morning-after pill? (**Id.** at 97:24-25)
- You knew he (the coach who sexually assaulted her) was coming onto you right? So you’re naïve? Did you have a boyfriend before then? Did you ever have a guy come onto you before then? You didn’t have any experience with boys or men at that point? When you say a few, how many does that mean? How many is that? (**Id.** at 142: 9-22)
- And when you say you’re innocent, does that mean you wouldn’t know it’s inappropriate for a man to touch your – or run his hand across your breast, as you described? (**Id.** at 149:13-15)
- (To her mother Kathleen) Did she admit that she was kissing boys or interacting with boys when she should have been practicing? (**Exhibit 10** at 62:6-8)
- Has she ever been pregnant? Were there any pregnancy scares? Did she ever talk to you about possibly being pregnant? Are you aware that she took the Plan B pill? (**Id.** at 164: 9-12, 19-20).
- (To her aunt and uncle) Were you aware that Kylie McKenzie took a Plan B pill prior to her relationship with (unnamed boy)? (**Exhibit 11** at 60:12-14)
- Were you aware of her having any pregnancy scares while she lived in Florida? (**Exhibit 12** at 134:7-8)

Conclusion

Olympic sport should be a vehicle for athletes to grow, thrive, and achieve as they amaze and impress their fellow Americans. They rightfully depend on the USOC and the NGBs to do everything feasible to provide an environment that allows them to achieve those goals. NGB

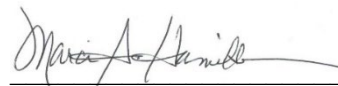
leaders should never lose sight that the safety and welfare of athletes is of the utmost importance without exception. It is axiomatic that athletes need to be made safe for them to attain their goals, *especially* from known predators. If leaders in sport cannot or will not adhere to these fundamentals, they must be held to account.

The situation with USTA can be classified as nothing less than dire. Athletes, particularly females, are at great risk of being subjected to sexual abuse due to a culture embedded in the USTA that fosters such behavior. The USTA is the latest entity to put image and money above the protection of children and young adults from sexual abuse. What makes USTA's situation worse than many others is that it has had over 20 years to learn about systematic sexual abuse in our culture, but the lessons to be learned from so many other organizations have been assiduously resisted. True, USTA makes hundreds of millions of dollars each year and its annual US Open is a treasured tennis competition, but its recalcitrance to better and effect sex abuse prevention procedures is indefensible and in need of a thorough airing in Congress.

The longer this issue remains unaddressed, the more likely other young athletes will be irreparably harmed by preventable sexual abuse. We respectfully request Congress immediately investigate USTA and force the necessary changes, including the removal of USTA personnel, to protect athletes across the country.

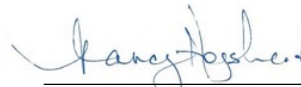
Respectfully submitted,

Dated: October 5, 2023



Marci Hamilton, Esq
CHILD USA, Inc.
Philadelphia, PA

Dated: October 5, 2023



Nancy Hogshead, Esq
Champion Women, Inc.
Jacksonville, FL

Dated: October 5, 2023

A handwritten signature in black ink, appearing to be 'R. Allard', written over a horizontal line.

Robert Allard, Esq.
Corsiglia, McMahon and Allard,
LLP
San Jose, CA

EXHIBIT 1

Date	Name	State	Club	Incident & # of Victims	Offense	Criminal Arrest & Date	Pleading	Sex Offender List	USTA - Status	USTA - Banned, Suspended, Probation List	SafeSport List	Information
Apr-19	Anibal Aranda Villalba	FL	Unknown	Unknown	Sexual Misconduct	Unknown	Unknown		Probation	Yes	Yes - Suspension	
Sep-11	Bob Hewitt	MA	Unknown	Multiple victims 9-16 yrs old, rape and sexual assault of minors in the 80's and 90's	Sexual Misconduct - involving a minor -	2015	N/A		N/A	No	No	https://www.bostonlobe.com/sports/2011/08/28/tennis-star-trailed-abuse-allegations/WhiKNUjq45U5c6P3j8KO/story.html
Nov. 2018	Carl Fennell	DE	Capital School District teacher and tennis coach	Forcing a 14 yr old to perform sex acts on him after tennis lessons 89-90	Sexual Misconduct - involving a minor -	Aug. 2018	Guilty		N/A	No	No	https://www.delawareonline.com/story/news/2018/11/19/delaware-tennis-legend-gets-three-years-prison-1989-90-sex-crimes/1945302002/
Apr-18	Carl Hodge	GA	Macon-Bibb County Recreation Center, Middle Georgia Tennis Association, John Drew Smith Tennis Center	Rape and molest girl 14-18 yrs old	Sexual Misconduct - involving a minor	No	No criminal case		Temp. Restrictions	Yes	No	https://www.macon.com/news/local/article209111234.html
Jan. 2020	Casey Connaway	CA	Ragle Ranch Regional Park	Sexual relationship with 15 yr old female	Sexual Misconduct - involving a minor -		Pending Investigation		N/A	No	No	https://www.sfchronicle.com/crime/article/Sebastopol-tennis-coach-arrested-on-suspicion-of-14958008.php
Oct. 2019	Christopher Pearson	FL	Yasanti Parks and Recreation, YMCA, Glen Eagle Community	Sexual battery of a 12 yr old female victim	Sexual Misconduct - involving a minor -	2016	Guilty		N/A	No	No	https://www.naplesnews.com/story/news/crime/2019/10/30/former-youth-tennis-coach-sentenced-life-prison-raping-girls/4096489002/
Nov-18	Colin Sullivan	MN	Olmsted Medical Center	Multiple female victims under age 18	Criminal Disposition - involving a minor at doctors office	June 2017	Unknown		Perm Ineligible	Yes	No	https://kttc.com/2018/11/23/rochester-physician-assistant-disciplined-restricted-over-juvenile-female-exams/
Oct. 2012	Dale Kim	CA	Scholl Canyon Tennis Center	Sexually assaulted 15 yr old female	Sexual Misconduct - involving a minor -	Oct. 2012	Unknown		N/A	No	No	https://latimesblogs.latimes.com/losow/2012/10/tennis-coach-accused-sexually-assaulting-15-year-old.html
Oct-14	Daniel Wilson	MN	Twin Cities High School Tennis	Sex with 15 year old female	Criminal Disposition - involving a minor	Sept. 2014	Unknown		Ineligible	Yes	Yes - Ineligible	https://minnesota.cbslocal.com/tag/daniel-hubbard-wilson/
Oct. 2011	Dennis Lee Zellefrow	PA	High School Tennis Coach	Groping a female minor	Sexual Misconduct - involving a minor -	Nov. 2010	No contest		N/A	No	No	https://www.ataz.com/article/former-high-school-coach-sentenced-for-groping-tennis-player/7454104#
Jan-14	Donald Gagnon	FL	Manatee County Tennis Academy, Creekside Tennis Academy	Child porn of boys	Criminal Disposition - involving a minor	Jul-09	Unknown		Ineligible	Yes	Yes - Ineligible	https://www.heraldtribune.com/article/1K/20090729/News/605220157/24
Apr-15	Doug Overmyer	IL	Midwest Youth Tennis Team	Inappropriate conduct with a female minor	Criminal Disposition	Unknown			Ineligible	Yes	Yes - Ineligible	
Apr-15	Douglas Booth	FL		Possible battery, criminal sexual abuse, aggravated criminal sexual abuse (bates 0013307)	Sexual Misconduct - involving a minor	No	Unknown		Perm Ineligible	Yes	No	https://www.ustafloida.com/usta-florida-executive-director-announces-retirement-board-opens-search-new-executive/
Mar-21	Dwayne Clegg		Unknown	Unknown	Unknown						Yes - Temp. Suspension	
Jul-20	George Carlyle	MN	Unknown	Stalked adult women	Criminal Disposition - Sexual Misconduct, Sexual conduct	May-19	Guilty		Ineligible	Yes	Yes - Ineligible	https://kstp.com/news/cba-nhassen-man-sentenced-criminal-sexual-conduct-stalking-charges-dismissed/5351507/
Feb-12	Henry Germain	CA	Pleasanton Country Club, Castlewood Country Club	Multiple victims girls 9-12 yrs old, child, lewd and lascivious acts with a child under 14 years and penetration with a foreign object	Sexual Misconduct - involving a minor	Feb. 2012	No contest		N/A	No	No	https://www.sfgate.com/bayarea/article/Pleasanton-country-club-s-tennis-pro-arrested-on-3720943.php
Jun-08	James Bartholomew	IN	LaFayette High School tennis coach	Child porn	Sexual Misconduct - involving a minor -	Jun-08			N/A	No	No	https://www.northwestgopianews.com/lafayette-man-arrested-for-child-porn-is-tennis-instructor-local-new/article_8a531bd2-9342-5798-9f75-e1ce7363e9c7.html
Mar-17	James Natale	FL	Unknown	Unknown	Criminal Disposition	Unknown	Unknown		Suspended	Yes	Yes - Suspension	
Mar-18	Jason Bettuo	KY	Unknown	Boys age 6-8, child pornography, sexual abuse	Criminal Disposition - involving a minor	Jun-13	Guilty		Perm Ineligible	Yes	Yes - Perm. Ineligible	https://www.brisbanetimes.com.au/national/queensland/us-thanks-queensland-police-for-help-in-stopping-pandophile-couple-20130630-2a4a.html
Jun-19	Javier Pozo	MO	Miller Tennis Academy at Forest Lake Tennis Club	Female age 17 - groped, sodomized and sexually abused her for 2 yrs.	Criminal Disposition - involving a minor	Aug-19	Guilty		Perm Ineligible	Yes	Yes - Perm Ineligible	https://www.stltoday.com/news/local/crime-and-courts/former-chesterfield-tennis-instructor-now-a-registered-sex-offender-sued-again-over-sexual-abuse-allegations/article_17fee747c2ce-5ad4-ab36-7e9fc2be7f55.html
Aug-19	Jean - Romel Cyril	NV	Unknown	Raped an adult woman	Criminal Disposition - Sexual Misconduct	Aug-19	No contest		Ineligible	Yes	Yes - Ineligible	https://www.pressreader.com/usa/las-vegas-review-journal/20190824/281913069771192
Sept. 2018	Kevin Rust	MN	Lourdes High School Tennis Coach	Attempted sexual assault of a child	Criminal Disposition - involving a minor	Jun-19	Guilty		Ineligible	Yes	Yes - Ineligible	https://krocnews.com/former-lourdes-tennis-coach-given-prison-sentence/
Sept. 2018	Kieran Townsend	MN	Benilde-St. Margaret's Tennis Coach, Rochester High School Tennis Coach	Attempted sexual assault of a minor	Criminal Disposition - involving a minor	Dec. 2019	Guilty		Ineligible	Yes	Yes - Ineligible	https://www.southernminnesotanews.com/gustavus-tennis-camp-counselor-sentenced-to-jail-probation/
Mar-18	Mark O'Neil	PA	Hillcrest Racquet Club	Female he thought was under 14 yrs old	Criminal Disposition - involving a minor	Sept. 2018	Guilty	Yes	Ineligible	Yes	Yes - Ineligible	https://www.wfmz.com/news/area/berks/former-youth-tennis-coach-sentenced-for-arranging-sex-with-underage-girl/article_be79780b-5556-5ac0-b7fd-1466151c1e29.html
Dec. 2016	Matt Reza Montana	CA	Sunnyvale Tennis Center, BG Tennis, Lifetime Tennis, De Anza and West Valley College	Lewd acts with a minor under 14 yrs old in 2006 - 2013, they were sisters	Sexual Misconduct - involving a minor -	Dec. 2016	No contest		N/A	No	No	https://www.ktvu.com/news/sunnyvale-tennis-coach-accused-of-molesting-2-underage-sisters
Jul-15	Maurice Thomas-Riley	CT	Grassroots Tennis	Sexually assaulted 14 year old female	Criminal Disposition - involving a minor, sex assault on a minor	May-15	No contest	Yes	Ineligible	Yes	Yes - Ineligible	https://www.stamfordadvocate.com/police/article/Tennis-instructor-nine-months-for-sex-15071522.php

Date	Name	State	Club	Incident & # of Victims	Offense	Criminal Arrest & Date	Pleading	Sex Offender List	USTA - Status	USTA - Banned, Suspended, Probation List	SafeSport List	Information
Oct. 2011	Michael McCormick Jr.	CT	Unknown	Sexual relationship with 15 yr old female	Sexual Misconduct - involving a minor -	2009	No contest	Yes	N/A	No	No	https://www.norwichbulletin.com/article/20111004/NWS/210049928
Apr-11	Nathan "Nate" McLain	MN		Sex with a 16 yr old female	Criminal Disposition - Sexual Misconduct	Feb. 2010	Guilty		Ineligible	Yes	Yes - Ineligible	https://www.startribune.com/teen-who-had-sex-with-tennis-coach-stands-up-for-him/119035924/
Apr-16	Noel Callaghan	CO	NSW Junior Squad	16 yrd old had to perform oral sex on coach when she lost match	Criminal Disposition - involving a minor		Charges dropped		Ineligible	Yes	No	https://www.abc.net.au/news/2016-04-08/tennis-coach-tries-to-kiss-girl-during-camp-royal-commission/7310412
Apr-20	Normandie Burgos	CA	Tamalpais High School	Multiple male victims, raped, sodomized victims	Criminal Disposition - involving a minor	Yes - First time 2010, Second 2014, Third time August 2017	Unknown		Perm Ineligible	Yes	Yes - Perm Ineligible	https://www.marinijournal.com/2019/08/11/i-trusted-him-with-my-son-255-years-in-prison-for-east-bay-tennis-coach-convicted-of-child-molestation/
Aug-20	Patrick Khadroo	CA	Unknown	Unknown	Criminal Disposition - involving a minor	Unknown	Unknown		Ineligible	Yes	Yes - Ineligible	
Feb. 2016	Paul Johnson	FL	Claude Pepper Park	molested a 14 yr old female	Sexual Misconduct - involving a minor -	Feb. 2016	No contest	Yes	N/A	No	No	
Nov. 2009	Peter Jeschke	CA	Santa Barbara High Tennis Coach	Sex and giving alcohol to multiple minors	Sexual Misconduct - involving a minor -	Nov. 2009		Yes	N/A	No	No	https://www.independent.com/2011/01/14/tennis-coach-convicted-sex-crimes-back-jail/
Feb-13	Pierre-Ludovic Duclos-Lasnier	FL	IMG Academy	Attempted sex with 13 yr old	Solicitation of sex from a minor, photographs of penis	Feb. 2013	No contest		N/A	No	No	https://www.usatoday.com/story/sports/tennis/2013/02/22/pierre-ludovic-duclos-lasnier-canada-tennis-pro-sex-13-year-old-girl/1938967/
Oct. 2013	Rex Haultain	MO	Kansas City Raquet Club	Molest of a 15 yr old	Criminal Disposition - involving a minor	Jul-10	Guilty		Perm Ineligible	Yes	Yes - Perm Ineligible	https://www.kbia.org/post1/tennis-player-sues-club-and-ke-raquet-club-over-sexual-abuse-her-coachstream/0
Sept. 2017	Rikus de Villiers			Very touchy feely with her, rubbing shoulders, massaging her back and giving her hugs.								
Mar-21	Robert "Bob: Love	KY	Unknown	Sexual contact of 9/10 yr old boy	Allegations of Misconduct	2020	No contest		Suspended	Yes	Yes - Temp. Suspension	https://www.mercurynews.com/2020/03/28/fremont-tennis-coach-charged-with-lewd-acts-with-a-minor/
Dec. 2009	Roberto DeFreitas	MN, TX	Fred Wells Learning Center	14 yr old girl, slapped her on the butt and talked about her body	Criminal Disposition - involving a minor	Dec. 2009	Guilty		Probation	Yes	No	https://www.twincities.com/2009/12/14/coach-allegedly-had-sexual-contact-with-teen-in-minneapolis/
May-10	Ronald Torres	CA	The Club at Mission Hills	Child porn, yrs 8-10	Sexual Misconduct - involving a minor -	May-10	Guilty	Yes	N/A	No	No	https://www.eastbaytimes.com/2010/05/03/tennis-coach-in-hayward-fremont-charged-in-child-porn-case/
Jan. 2017	Samuel Daniels				Lauren Tracy sends email to Matt Barnhart that "samuel is not permitted to serve as a USTA ITT volunteer"				N/A	No	No	
Mar-20	Sayed Amir	CA	Fremont Tennis Coach	Lewd acts with a minor	Criminal Disposition - involving a minor	Mar-20	Pending Investigation		Perm Ineligible	Yes	Yes - not on website	https://www.mercurynews.com/2020/03/28/fremont-tennis-coach-charged-with-lewd-acts-with-a-minor/
Mar-20	Sean Sueno	HI	Unknown	Unknown	Sexual Misconduct - involving a minor	Unknown	Unknown		Perm Ineligible	Yes	Yes - not on website	
Feb-10	Stanley Smith	CA	Unknown	Unknown	Unknown	Unknown	Unknown	Yes	N/A	No	No	https://theenterprisereport.typepad.com/news/law-enforcement/page/22/
Mar-21	Stephen Kerlew				Allegations of Misconduct						Yes - Suspension	
Mar-19	Stoyan Anastassov	TX	University Park, Greenhill School	Molest of a 13 yr old, 2 additional victims came forward later	Sexual Misconduct - involving a minor -	2015	No contest		N/A	No	No	https://www.peoplenewspapers.com/2019/03/01/former-up-tennis-coach-convicted-of-molesteing-underage-player/
Jun-19	Sylvester "Robbye" Poole III	FL	Unknown	Hit and run car accident	Criminal Disposition - hit and run accident	Unknown	Unknown		Probation	Yes	No	https://opencourt.ca/2019/05/18/wta-coach-hitting-partner-poole-arrested-in-florida/
Dec. 2012	Taylor McClain	TX	Atascocita High School teacher and tennis coach	Child porn, oral sex, sex of two females 15 & 16 yrd old	Sexual Misconduct - involving a minor -	Dec. 2012	No contest		N/A	No	No	https://www.khou.com/article/news/humble-isd-police-tennis-coach-had-sex-with-student-asked-her-friend-for-threesome/785339596792
Feb. 2002	Theodore Wargo	CA	Prime Time Athletic Club, Fresno State University, Millbrae Recreation Center, San Francisco Tennis Club, Mills High School	4 male victims 9-17 yrs old, molestation	Sexual Misconduct - involving a minor	Feb. 2012	No contest		N/A	No	No	https://www.sfgate.com/bayarea/article/Peninsula-Tennis-Coach-Held-on-Abuse-Charges-2950809.php
Apr-18	Thomas Rouse	NM	City of Portland Tennis Director	Used internet to try and meet with 4-5 girls ages 12-17	Criminal Disposition - involving a minor	Oct. 2015	Guilty		Ineligible	Yes	Yes - Perm Ineligible	https://katu.com/news/local/former-portland-tennis-coach-thomas-rouse-sentenced-to-2-years-in-prison
Aug. 2020	Timothy Mitchell	KY	Wyoming Recreation Center, Wyoming City Schools	Attempt solicitation of 14 yr old child online	Sexual Misconduct - involving a minor -	Aug. 2020	Pending Investigation		N/A	No	No	https://local12.com/news/local/former-tennis-coach-convicted-for-trying-to-lure-underage-girl-for-sex-cincinnati
Feb. 2017	Van Phuoc "Timothy" Dang	CA	Schurr High School Coach - West Covina	Sodomy of a minor	Allegations of Misconduct	Feb. 2017	No contest	Yes	Temp. Suspension	Yes	Yes	https://losangeles.chslocal.com/2017/02/28/montebello-tennis-coach-gets-4-years-for-sex-with-teen/
Jul-14	Victor Hugo Villarreal III	NM	Rosemarie Shellabarger Tennis Center	Sex with 15 year old female	Sexual Misconduct - involving a minor -	Jul-15	Guilty	Yes	N/A	N/A	Yes - Ineligible	https://www.newspapers.com/image/360943473/?m=sex%20tennis%20coach&match=14
Dec. 2019	William Martire	NY	Poly Prep Day School	Sexually abusing and assaulting a 14 yr old girl for 2 years.	Sexually abusing and assaulting a 14 yr old girl for 2 years.	1980's			N/A	No	No	https://brooklynmag.com/articles/2019/12/19/poly-prep-tennis-coach-named-in-sexual-assault-lawsuit/
Unknown	William Scandalis	CA	Unknown	Unknown	Sexual Misconduct - involving a minor -	Unknown	Unknown		Perm Ineligible	Yes	No	https://swimswam.com/names-of-46-coaches-banned-from-2020-swimming-released/

KM00178

EXHIBIT 2



December 13, 2012

Mr. Scott Blackmun
USOC
1 Olympic Plaza
Colorado Springs, CO 80909-5760

Re: "Minimum" Standards for SafeSport Initiative

Dear Scott,

Thank you for your letter of December 11th.

There is no stronger supporter of the SafeSport Initiative and the implementation of measures to ensure safe training environments, not only for athletes but for all NGB participants, than the United States Tennis Association. For many years, long before the USOC contemplated the SafeSport Initiative or the hiring of a Director of SafeSport & Ethics, the USTA has been a leader in implementing robust policies and procedures to ensure that our mission "To promote and develop the growth of tennis" could be achieved while mitigating any risk of misconduct. In fact, it was the USOC that asked the USTA to provide a representative to serve as a panelist nearly two years ago at its "Best Practices Seminar" to share the numerous measures implemented by the USTA to ensure this end.

The USTA strongly supports the implementation of a sport safety program by every National Governing Body, but it believes that the NGBs should determine how best to structure and implement such a program with the USOC's assistance in providing tools and resources. It was that exact sentiment that was expressed to the USOC by an overwhelming majority of the NGB's at the Best Practices Seminar nearly two years ago. During those meetings, all parties left with the understanding that the USOC would take the lead in creating a set of best practices that NGBs could pick and choose from based on a variety of factors unique to each NGB. With that, the USOC did a stellar job in assembling the SafeSport Handbook which memorialized best practices for creating safe training environments while providing clear disclaimers such as the following, which recognized the individuality of every organization:

"This document imposes no obligation on any National Governing Body or any of its members or affiliated organizations. Rather, the document is a guide which may be useful to national and local clubs in developing their own policies and the handbook should not be viewed as creating a legal standard

EXHIBIT

EX. 106 GILBERT, S. 12/16/2020

exhibitsticker.com

of care or as a model of best practice...Each organization should use its own judgment in evaluating which policies it should implement and the manner in which to implement them.”

In speaking with numerous NGBs following the release of the SafeSport Handbook and based on surveys conducted, there was a significant movement by NGBs on their own to implement new measures and enhance existing programs they deemed were practical and best suited for their respective sport. Significant recognition was given to the USOC for their efforts in providing resources that NGBs could draw from and the USOC did an excellent job in communicating to the NGBs that there were resources available to them at little to no charge.

At the June 28, 2012 meeting of the USOC Board of Directors, the Board explored “whether to put in place mandatory minimum requirements for NGB’s relating to SafeSport...and a motion was made directing the USOC to develop proposed specific minimum requirements....” This was a complete reversal by the USOC but was repeatedly reinforced that “the standard would be set so low that nearly every NGB with a current reasonable policy would be in compliance”. Unfortunately, the end result of the proposal that was presented to you and the Board is not the product of the SafeSport working group or representative of the sentiments (which vary greatly) of the working group, far exceeds the “minimum requirements” as initially contemplated and expressed to the NGBs, and is a stark departure from the USOC’s previous policy of creating resources and tools to the NGBs in achieving their own sport safety program without mandating minimum requirements.

Based on a survey that was conducted by the USOC/NGB SafeSport working group, a large number of NGB’s (even those with robust sport safety programs at the present time) do not currently, and do not have plans within the next year, to fulfill several of the controversial minimum standards as proposed. Additionally, several of the proposed minimum standards were measures of great dispute among the NGB’s within the working group but were nonetheless added to the list at the USOC’s discretion. In fact, it is our understanding that these proposed measures were presented in a manner that implied that they were the results of the working group when, in fact, there was sharp disagreement from within the working group about many of the items included and the direction of the proposed unfunded mandates.

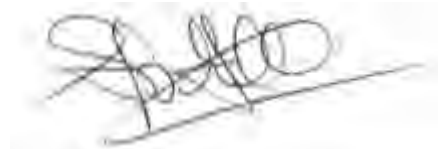
Scott, you are undoubtedly aware that by creating these minimum standards for all NGBs the USOC is not only creating new exposure for itself, but also for NGB’s who would be required to revamp their existing programs to comply with the vague and controversial minimum standards proposed to the USOC Board. As you acknowledge in your letter, “reasonable people can disagree” but to take the independent judgment away from the NGB’s who have spent thousands of hours and dollars in developing their own programs based on best practices for their organization seems to indicate that we cannot agree to disagree as these proposed minimum standards would become mandates of the United States Olympic Committee.

Let’s be clear that the USTA is fully supportive of the SafeSport Initiative and the tireless work that you and your team have achieved to date. The USTA has been a leader in

this area as recognized by the National Center For Safety Initiatives, National Council of Youth Sports and others, and with over 750,000 members and thousands of volunteers, officials, ballpersons, etc., we are keenly aware of the need to always look towards enhancing our sport safety program.

We appreciate your efforts and we again ask that you table the recommendation for further analysis and discussion.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Skip Gilbert', with a long horizontal line extending from the bottom of the signature.

F. Skip Gilbert
Managing Director, Professional Tennis Operations
US Open Tournament Manager

cc: Larry Probst, USOC
Gordon Smith, USTA
David Brewer, USTA
Dan Malasky, Esq., USTA
Rich Bender, NGBC

EXHIBIT 3

Minutes

Board of Directors Meeting Chicago, IL September 25-26, 2014

A meeting of the Board of Directors (the "Board") of the United States Olympic Committee ("USOC") occurred on September 25 and 26, 2014 over two sessions, following notice duly given pursuant to the USOC Bylaws. The first session commenced at 2:45 p.m. local time on September 25. The following members of the Board were present in person for the first session: Larry Probst (Chair), Robbie Bach, Jim Benson, Scott Blackmun (CEO), Bob Bowsby, Ursula Burns, Anita DeFrantz, John Hendricks, Susanne Lyons, Bill Marolt, Mary McCagg, Dave Ogrian, Whitney Ping and Angela Ruggiero. Jim Easton participated in the meeting by telephone. The above present members constitute a quorum of the Board under the USOC Bylaws Section 3.16. Nina Kempfel was unable to attend.

Present from the USOC were Jon Denny, Malia Arrington, Rick Adams, Lisa Baird, Patrick Sandusky, Benita Fitzgerald-Mosley, Walt Glover, Alan Ashley, Larry Buendorf, Michelle Stuart and Rana Dershowitz. Gordon Smith, Skip Gilbert and Maureen Shaffer were also present for the meeting. The minutes were recorded by Ms. Dershowitz.

Session I

1. Call to Order and Welcome

The Chair called the meeting to order at 2:45 and welcomed the Board.

2. US Olympic Endowment

Mr. Bill Hybl, Chair of the US Olympic Endowment and Mr. Bill McCarron, President of Prime Buchholz, updated the Board regarding the assets and management of the US Olympic Endowment. Mr. Hybl explained that Prime Buchholz is the independent advisory firm that the USOE utilizes to strategize regarding its investments. Mr. McCarron then shared with the Board information regarding the long and short term performance history of the USOE. He provided the Board with insight into the strategies used, shared the liquidity profile and geographic exposure of the USOE and identified the various managers involved. A Board member inquired as to the diversity reflected among the USOE investment managers. The Board discussed the fees associated with Prime Buchholz work and then thanked Prime Buchholz and the USOE for the great work done protecting the endowment of the US Olympic movement.

Mr. Hybl and Mr. McCarron departed the meeting.

3. USOC Financial Results

Mr. Walt Glover, Chief Financial Officer, reported to the Board on the USOC's year to date financial results. He reported that the USOC is projecting that it will end the year ahead of target with regard to revenue and below target with regard to expenses. He provided the Board with insight into the USOC's operating cash position versus budget as well.

4. Development Update

Mr. Jon Denney reported to the Board on the US Olympic and Paralympic Foundation's results for the year to date. He presented the Board with information regarding historic Games-year fundraising trends and explained his intent to achieve greater success than historic trends would predict. Mr. Denney provided the Board with his revised forecast for the year as well as prospects and strategies for the final quarter of the year.

Mr. Denney next updated the Board on staffing changes and hires within the division.

Mr. Denney then shared with the Board plans for the USOPF's new annual fund, the Team USA Fund. He explained how the annual fund differed from the USOC's direct mail efforts and gave the Board insight into the USOPF's plans for testing and implementation of the new initiative.

Next, Mr. Denney spoke to the Board regarding some of the challenges that could arise with an increase in principal gift level gifts, particularly in connection with restricted gifts, associated expenses and the USOC's budgeting process. The discussion turned to the necessity of ensuring balance between restricted and unrestricted gifts.

The Board asked about interest levels for Rio hospitality, which Mr. Denney explained is very high. A discussion then occurred regarding capacity for such hospitality in Rio.

5. Safe Sport

Mr. Blackmun reminded the Board of the prior discussions regarding Safe Sport as well as the Board's prior direction to staff. He explained what has been done to date and noted that while at one time support for the initiative was unanimous, one NGB had now indicated it had concerns. Mr. Blackmun invited representatives from the NGB Council and the U.S. Tennis Association to share their points of view.

Ms. Malia Arrington, Director of Ethics and Safe Sport, then reported to the Board on current structural development and fundraising efforts in support of the Safe Sport initiative. Ms. Arrington advised the Board that a draft of the proposed bylaws for the new entity are largely complete and will be circulated to the NGBC and AAC shortly,

with a goal of having them presented to the USOC Board in December. She further advised that staff has been working with an outside insurance consultant to best ensure that the new entity will be able to attain appropriate coverage. Finally, Ms. Arrington introduced Ms. Maureen Schafer to the Board, explaining that Ms. Schafer has been spearheading the fundraising efforts on a volunteer basis.

Ms. Schafer spoke to the Board about her involvement with the effort. She shared her perspective on the importance of the initiative and explained her fundraising approach. Ms. Arrington and Ms. Schafer then walked the Board through proposed fundraising collateral. The Board provided feedback on the collateral and engaged in a discussion around the focus of the entity. Ms. Ruggiero commented that the IOC and the broader global movement could benefit from all the work being done.

Mr. Gordon Smith, USTA Executive Director and Chief Operating Officer, spoke to the Board regarding USTA's perspective on the USOC's Safe Sport initiative. He expressed USTA's support for Safe Sport efforts generally, but explained that USTA does not believe that a single mandatory national entity is the best way to approach the issue. He shared his reasoning and concerns with the Board and recommended that the initiative move forward in a manner that enables a National Governing Body to opt out of the centralized structure if that entity independently meets specified stringent Safe Sport related standards on its own.

Mr. Rich Bender then shared with the Board the perspective of the NGBC, joined by Mr. Steve Penny and Mr. Doug Beal. They expressed the Council's appreciation for how much engagement there has been with the NGBs and how actively collaborative the development of the construct has been. Mr. Bender, Mr. Penny and Mr. Beal confirmed that the NGBC is strongly in support of the creation of a centralized independent entity to address safe sport issues, and believe it is critical that there be 100% NGB participation.

The Board engaged in a discussion regarding the currently proposed structure. The Board explored the benefits and challenges of mandating participation. The discussion turned to the scope of the Safe Sport effort with dialog about the education elements as compared to the investigative elements.

Following the discussion, Mr. Smith, Mr. Gilbert, Mr. Bender, Mr. Penny and Mr. Beal then left the meeting. The Board continued its discussion, exploring various potential alternative structures. The Board then determined to table the discussion until the following day's executive Board session to enable all Board members to give it further thought.

6. NCAA

Mr. Blackmun reported to the Board regarding meetings that have occurred among USOC personnel, between USOC personnel and representatives of the NCAA and NCAA member institutions and between USOC and NGB personnel regarding the direction of collegiate sports. He explained the concerns raised by the issues surrounding

the NCAA and commented upon how structural changes within the NCAA could negatively affect Olympic programs and the Olympic pipeline globally. Mr. Bob Bowsby shared his perspective on the challenges facing the NCAA and how the outcomes might affect the Olympic pipeline. Mr. Bowsby indicated that no one has a clear view into where things will go at this point, noting that the outcomes will take several years to play out and may be very different at different member institutions.

Mr. Blackmun advised the Board that there will be a discussion about collegiate sport at the NGBC meeting tomorrow and offered the Board the opportunity to join.

7. Pat Ryan Presentation

Mr. Pat Ryan, former chairman of the Chicago 2016 bid effort, joined the Board to provide his perspective of and observations about whether the USOC should or should not bid for the 2024 Olympic and Paralympic Games. Mr. Ryan spoke about the lessons learned from the Chicago bid, while noting that he is hopeful that conditions will exist or can be created to enable a winning bid from the United States. Mr. Ryan shared some of the legacy successes of the Chicago bid, despite not winning the Games. The Board discussed with Mr. Ryan some of the international dynamics around the Chicago bid and some changes that may occur in the bidding process.

At this time the Board adjourned for the day.

Session II

Chairman Larry Probst was unable to participate in Session II of the Board meeting and, pursuant to USOC bylaws Section 3.20, designated Scott Blackmun to run the meeting. Other than Mr. Probst, all members of the Board present for the first session were present for the second session, though Mr. Hendricks and Mr. Bowsby joined the meeting at 12:50 and Mr. Easton joined telephonically at 1:30. Mr. Doug Arnot was also present for the meeting.

8. Call to Order

Mr. Blackmun called the meeting to order at 12:35. He began the meeting by requesting that Board members share their views of the various council meetings that had occurred that morning. Bill Marolt and Ursula Burns reported on the NGBC meeting. Robbie Bach reported on the USOPA meeting. Dave Ogrian reported on the MSOC meeting. Susanne Lyons reported on the AAC meeting. A discussion then ensued regarding dynamics occurring within the AAC and how the USOC Board might be able to help.

9. Rio Preparations

Mr. Alan Ashley, Chief of Sport Performance, reported to the Board on preparations for Rio. He focused particularly on the plan to support Team USA in Rio, explaining to the Board the USOC venues that will be used. He shared some of the challenges encountered as well as the elements implemented to date.

10. 2015 Summer High Performance Allocations

Mr. Ashley next spoke to the Board regarding 2015 summer high performance allocations, as well as initial plans for winter allocations leading into 2018. Mr. Ashley shared Sport Performance's 2015 budget targets. A discussion then ensued regarding athlete support through VIK and tuition grants and how such support affects high performance allocation budgets, if at all. The discussion then turned to the philosophy underlying the proposed allocation plan and the ongoing NGB evaluation process undertaken by the USOC. Mr. Ashley then provided the Board with insight into the Paralympic allocation process.

Mr. Ashley shared with the Board his perspective on medal opportunities in Rio by sport. As part of this discussion, Mr. Ashley explained certain new strategies being undertaken with a few sports.

11. Marketing update

Mrs. Lisa Baird, Chief Marketing Officer, updated the Board on sponsor renewals. She then shared with the Board the USOC's media programming strategy, including both traditional and digital media. Mrs. Baird spoke to the Board briefly regarding the USOC's current understanding of the IOC's Global Olympic Channel development.

Next Mrs. Baird spoke to the Board about discussions that had recently occurred among the USOC, NBC and the NGBs about the long term development of media properties in the US. She shared some of the themes discussed as well as the history of collaborative rights development across the US Olympic Movement. She then discussed the USOC's planned use of its NBC bonus payment as well as strategies being explored to enable portions of the funding to further enhance existing initiatives.

12. Athlete Career and Education Update

Mrs. Benita Fitzgerald-Mosley reported to the Board on the USOC's athlete career and education programming. She shared with the Board some of the history of the USOC's efforts in this area, and spoke about where the USOC is hoping to take the program. Mrs. Fitzgerald-Mosley explained some of the learnings the USOC had gleaned from similar and parallel efforts ongoing in other contexts, both national and globally. Next Mrs. Fitzgerald-Mosley reported to the Board on the strategies and tactics being implemented over the next several years to support athlete career and education efforts.

Finally Mrs. Fitzgerald-Mosley shared with the Board key successes that have been achieved with the program in 2014.

At this point the Board took a five minute break.

13. Bid Discussion

Mr. Blackmun next reminded the Board of the work done to date in the bid evaluation process, as well as the guiding principles adopted by the USOC at the front of that evaluation effort. He introduced Mr. Doug Arnot to the Board to help inform the discussion. Mr. Blackmun shared with the Board thinking developed to date regarding the pros and cons of bidding for and/or hosting the Games. He then explained to the Board the selection criteria that have been identified and utilized to date.

The Board discussed the process it would be using to make its decisions regarding the question of whether to bid for the 2024 Olympic and Paralympic Games, and with whom. The Board then discussed the takeaways from all of the engagement to date with each of the four cities being considered. The discussion turned to international dynamics around the bidding process. The Board engaged in a thorough discussion regarding all four cities and their relative strengths and weaknesses.

14. Strategic Plan

Mr. Blackmun presented the Board with a new proposed long term strategic plan, asking several members of management to highlight for the Board the tactics under each of the strategies proposed as part of the plan. The Board determined that additional work should be done through the Paralympic Advisory Committee to further develop and refine the proposed strategic plan.

At this time, 4:30 p.m., all members of staff other than Rana Dershowitz, Malia Arrington and Rick Adams departed the meeting.

15. Safe Sport

The Board engaged in a continuation of the discussion regarding Safe Sport, specifically examining whether to continue down the path of mandating participation in the new national center being developed. The Board particularly explored whether it would be appropriate to enable an NGB to opt out of the entity if it met certain standards independently as recommended by USTA.

Following the discussion, the Board confirmed its continued support for participation in the entity being a requirement of an NGB maintaining good standing with the USOC. The Board also expressed its direction that the USOC must be careful to ensure that the details of the entity continue to be developed collaboratively to ensure that NGB concerns are addressed to the greatest extent possible.

The Board then turned its discussion to the proposed scope of the entity. Ms. Arrington explained to the Board that the proposed scope will be different with regard to education efforts versus investigation efforts, with the entity providing education relating to all forms of physical, sexual and emotional abuse, but only investigating allegations of sexual misconduct (and claims of physical or emotional misconduct associated with a sexual misconduct claim). She explained that any matter that does not involve sexual misconduct will not be handled by the entity, unless the NGB involved specifically requests the entity's participation and the entity agrees. The Board requested certain revisions to the fundraising collateral that had previously been presented to ensure that the scope is clear.

At this time Ms. Arrington and Mr. Rick Adams left the meeting.

16. Nominating and Governance Committee Report

Mr. John Hendricks, chair of the Nominating and Governance Committee, reported to the Board on the Committee's activities. He advised that the Committee had already interviewed each of the NGBC nominees, noting that both are incredibly strong. Mr. Hendricks advised the Board of the Committees planned next steps with regard to interviews for both the independent seats as well as the AAC seat being vacated. Mr. Hendricks also advised that the Committee is looking to place one additional independent individual on the USOC Ethics Committee. Several Board members made recommendations regarding potential candidates.

17. Audit Committee Report

Ms. Ursula Burns, Chair of the Audit Committee, updated the Board regarding the activities of the Committee. She noted that the full Committee had been in attendance at the meeting held on September 25. She reported that the Committee had approved minutes from several Audit Committee calls, and reviewed issued audit reports on several sports. Ms. Burns noted that the Committee reviewed the audit schedule and learned about the NGB financial best practices seminar, which appeared to be a success. Ms. Burns noted that Ms. Morane Kerek, Managing Director of Internal Audit, had reported on the USOC's audit of the OTC construction, which showed extremely good management. Ms. Burns advised that the Committee had further discussed the USATF audit and USATF governance concerns and had spoken about Grant Thornton's audit report plan. The Committee had received reports on the USOC's financial results and spent time hearing from Trevor Miller, Managing Director of IT.

18. Compensation Committee

Susanne Lyons, Chair of the Compensation Committee, reported to the Board regarding the activities of the Committee at its September 25, 2014 meeting. She noted that the Committee reviewed the USOC compensation plan benchmarked against industry. She reported that the Committee had noted with concern the level of vacation accrual at the USOC. The Committee had reviewed the senior employee evaluation

process. At the request of management, the Committee had approved the USOC again having a winter break closure. Finally, the Committee had further discussed Sport Performance goals for the organization, with particular attention to how aggressively the USOC should set its goals and what effects the goal setting philosophy will have on staff.

19. Paralympic Advisory Committee Report

Mr. Jim Benson, Chair of the Paralympic Advisory Committee reported to the Board on the activities of the PAC. He advised that the PAC had held a meeting on Wednesday, September 24. Mr. Benson shared that the PAC had discussed the new Paralympic structure implemented at the USOC, year to date Paralympic achievements, and the philosophy underlying Paralympic resource development and allocation.

20. Administrative Items

Noting that Ms. Rana Dershowitz would be leaving the USOC, a motion was made to adopt the following resolution:

Resolved, that the Board of Directors of the United States Olympic Committee hereby expresses its deepest appreciation to Rana Dershowitz for her tireless and dedicated work as General Counsel and specifically for her extraordinary legal skills, exceptional judgment, collaborative and collegial spirit and passion for advancing the Olympic Movement

The motion passed unanimously.

Ms. Dershowitz then expressed her gratitude to the Board as well.

Ms. Dershowitz next directed the Board to the proposed USOC National Anti-Doping Policy contained in the Board materials. She explained that the new policy was required to conform to the 2015 World Anti-Doping Code being implemented and additionally contained certain policy changes voluntarily proposed to enhance the USOC's efforts in the fight against doping. Ms. Dershowitz requested that one clarification be made from the version provided to the Board, explaining the rationale behind the proposed change. A motion was made to adopt the proposed USOC National Anti-Doping Policy with the one further revision, effective January 1, 2015. The motion passed unanimously.

Ms. Dershowitz next advised the Board that final dates and locations for 2015 USOC Board meetings were contained in the Board materials provided.

21. Adjournment

There being no further business, the meeting was adjourned at approximately 5:15 p.m.

This document constitutes a true and correct copy of the minutes of the meeting of the Board of Directors of the United States Olympic Committee.



A handwritten signature in black ink, appearing to read 'Rana Dershowitz', is written over a horizontal line.

Rana Dershowitz
Secretary

10/10/14
Date

EXHIBIT 4



United States Olympic Committee

*Recognizing, Reducing and Responding to Misconduct in Sport:
Creating Your Strategy*

SafeSport | WHERE YOUR GAME PLAN STARTS

Last Updated: March 2012

WS_000214



ACKNOWLEDGEMENTS

The U.S. Olympic Committee is grateful for the following persons and groups for their contributions to the SafeSport initiative and dedication to promoting safe training environments in sport:

- U.S. Olympic Committee Working Group for Safe Training Environments
- National Governing Bodies SafeSport Task Force
- Greg Love and Kimberlee Norris, Love & Norris

The U.S. Olympic Committee would also like to thank all of the NGBs, coaches, athletes, parents, security experts, training providers and grassroots organizations for their contributions.

TABLE OF CONTENTS

Introduction

Definitions

What's in the Handbook?

How to use the Handbook

Coordinating Strategies with your Local or National Organization

Part 1: Strategies to Recognize, Reduce and Respond to Misconduct in Sport

Strategy 1: Training and Education

Strategy 2: Screening Staff Members, Volunteers and/or Contractors

Applicant Screening

Criminal Background Checks

Strategy 3: Establishing Boundaries

Strategy 4: Managing Training and Competition

Supervision of Athletes and Participants

Physical Contact

Electronic Communications and Social Media

Locker Rooms and Changing Areas

Travel

Strategy 5: Responding to Abuse, Misconduct and Policy Violations

Reporting

Disciplinary Rules and Procedure

Investigation and Adjudication

Strategy 6: Monitoring Your Strategy

Part 2: Sample Forms and Documents

Application for Employment and Consent and Release

Reference Form

Reference Information

Reporting Form

Incident Report Form

Appendix Additional Resources

Prevention

Applicant Screening

Creating Policies and Procedures

Risk Management

Reporting

Effects of Child Abuse and Neglect

Counseling



INTRODUCTION

There are a lot of reasons to play sport – at any level. A life long activity, people often play sport to have fun and spend time with friends. Sport also encourages a healthy lifestyle, builds self confidence; athletes also do better off the field. They learn goal setting, teamwork and time management skills. Athletes are less likely to use cigarettes, drugs and alcohol; they have higher graduation rates and are more likely to attend college.

Unfortunately, sport can also be a high risk environment for misconduct, including child physical and sexual abuse. Here, we identify six primary types of misconduct:

- Bullying
- Harassment
- Hazing
- Emotional Misconduct
- Physical Misconduct
- Sexual Misconduct, including Child Sexual Abuse

All forms of misconduct are intolerable and in direct conflict with the Olympic Ideals.

Misconduct may damage an athlete's psychological well being; athletes who have been mistreated experience social embarrassment, emotional turmoil, psychological scars, loss of self esteem and negative impacts on family, friends and the sport. Misconduct often hurts an athlete's competitive performance and may cause him or her to drop out of sport entirely.

The U.S. Olympic Committee is committed to improving the development, safety of athletes and participants involved in sport. The U.S. Olympic Committee publishes this handbook as a resource to guide the development, implementation and internal review of effective athlete safety and misconduct prevention strategies for local, regional and national sport organizations.



Strategy 1: Training and Education

SafeSport | WHERE YOUR GAME PLAN STARTS

TRAINING AND EDUCATION

What

Relevant individuals (e.g., those individuals who (1) have routine contact with or supervision over athletes and participants, (2) are responsible for enforcing child abuse and misconduct policies, (3) are in managerial or supervisory roles, and (4) are new and current staff members and/or volunteers), complete appropriate training about child sexual abuse and other types of misconduct before having contact with athletes.

Depending on the organization, the content and delivery of the training for staff members and/or volunteers may be different.

Why

Education is a key component of any prevention strategy. Awareness training provides relevant participants with information necessary to more effectively monitor their sport, minimize the opportunities for child physical or sexual abuse and other types of misconduct and respond to concerns. It is also a strong public statement that the organization places a priority on athlete safety.

Elements

- ☐ States organizational commitment to ongoing training and awareness
- ☐ Requires education and training for any relevant individual with routine athlete contact
- ☐ Encourages education and training for athletes and parents
- ☐ Complies with the relevant standard of care and legislation
- ☐ To prevent child physical and sexual abuse, training:
 - Provides definitions for, and effects of, child physical and sexual abuse
 - Identifies risk opportunities for child physical and sexual abuse
 - Addresses common myths about offenders
 - Outlines patterns, behaviors and methods of operation of sexual predators
 - Requires testing consistent with existing standards of care and legislation, where applicable
- ☐ To prevent other types of misconduct, training:
 - Provides definitions for, and effects of, all forms of misconduct (emotional, physical sexual; bullying, harassment and hazing)
 - Identifies risk opportunities for misconduct in sport
 - Identifies policies, practices and procedures to recognize, reduce and report misconduct
 - Requires testing consistent with existing standards of care and legislation, where applicable

TRAINING AND EDUCATION

Our policies and procedures require staff members and/or volunteers to report abuse, misconduct and violations of its Participant Safety Handbook. To do so, staff members and/or volunteers should have a basic understanding of sexual abusers, as well as “grooming,” the most common strategy offenders use to seduce their victims. Using a combination of attention, affection and gifts, offenders select a child, win the child’s trust (and the trust of the child’s parent or guardian), manipulate the child into sexual activity, and keep the child from disclosing abuse.

Accordingly, staff members and/or volunteers complete an awareness training concerning misconduct in sport before performing services for ORGANIZATION. Misconduct in sport includes:

- Bullying
- Harassment
- Hazing
- Emotional misconduct
- Physical misconduct, and
- Sexual misconduct, including child sexual abuse

Staff members and/or volunteers must successfully complete the training and the quiz after the test.

Those staff members and/or volunteers who are required to take awareness training will take athlete awareness training every two (2) years, or XX day(s) before they have contact with athletes.



Strategy 2:

Screening Staff Members and/or Volunteers

SafeSport | WHERE YOUR GAME PLAN STARTS

APPLICANT SCREENING

What

Applicant screening processes identify applicants with characteristics that would increase the risk of harm if they were placed in a particular position. The screening process is based on the requirements of the position, the nature of the contact with athletes and participants and the legal limits placed on the use of screening tools.

Why

Sound, practical and responsible screening practices reduce the chances that an athlete will come in contact with potentially dangerous adults.

Elements

- ☐ States that applicants who will have routine contact with athletes must consent to, and pass, an applicant screening process before working with athletes or other participants
- ☐ States that, as appropriate to the position, function and access to athletes and participants, an applicant screening may include:
 - an employment, contractor and/or volunteer application designed to reveal high risk responses or behaviors, including information concerning past employment, contractor, or volunteer experience
 - reference checks, with questions designed to reveal high risk behaviors or life patterns
 - a face to face, telephone or video conference interview, with questions designed to reveal high risk behaviors or life patterns
- ☐ Requires signed release from applicant which gives permission to others to provide relevant information freely
- ☐ Requires signed consent and waiver form, providing permission for a criminal background check to be conducted for applicant

APPLICANT SCREENING

Staff members, contractors and/or volunteers must consent to, and pass, a formal applicant screening process before performing services for CLUB.

Elements of our screening process include, as applicable, successful completion of an application, interview, reference check and criminal background check.

EDUCATION ABOUT CLUB'S PROTECTION POLICIES

To deter applicants who may be at risk of abusing athletes or participants from applying for positions, CLUB educates its applicants about its protection policies and offers applicants an early opt out by:

- Requiring awareness training before placement and/or before working with athletes and participants
- Informing applicants about our policies and procedures relevant to prevention
- Asking applicants to review and agree to our policies and procedures before proceeding with the process
- Requiring applicants to sign a document acknowledging review of our policies and procedures

WRITTEN APPLICATIONS

Each applicant for a position will complete an application form consisting of personal, identifying information and a general release with applicant's signature.

The written application will:

- Ask about previous work and volunteer experiences
- Ask questions intended to illicit information concerning high risk behaviors
- Provide a written release for contacting personal references and performing a criminal background check, including an indemnification clause
- Ask open ended questions that encourage broad answers
- Use disclosure statements to ask applicants about previous criminal arrests or convictions for sexual offenses, violence against youth and other violent criminal offenses or felonies

PERSONAL INTERVIEW

Appropriate staff will interview applicants whose experience and credentials are considered a fit for available positions. During this interview, CLUB will ask questions to encourage discussion, clarify responses and expand on the applicant's answers to questions from the written application.

REFERENCES

References of applicants will be contacted (either by phone or in writing) and asked specific questions regarding the applicant's professional experiences, demeanor and appropriateness for involvement with minor athletes and participants.

RELEASE

Each applicant will also provide a signed release, consistent with federal, state and local laws regulating employment practices, that allows references to speak freely about the applicant's qualifications without fear of reprisal and authorizing CLUB to obtain information concerning an applicant's past employment, volunteer experience and information provided by the applicant during the screening process (i.e., written application and personal interview).

See Part 2, Sample Forms and Documents, and the Appendix for additional Applicant Screening Resources.

SAMPLE

CRIMINAL BACKGROUND CHECKS

What

As one part of an overall strategy for screening staff members and/or volunteers, organizations conduct a criminal background check. An organization may also deem it appropriate to conduct a criminal background check on certain contractors.

Why

Making a reasonable effort to obtain past criminal behaviors reduces the chance that athletes and other participants will come in contact with potentially dangerous individuals.

Elements

- ☐ Requires applicants to consent to, and pass, a criminal background check before performing services for the organization
- ☐ States that all applicants must successfully complete a criminal background check before performing services for the organization
- ☐ Generally describes criminal background checks practice, including:
 - The general process
 - Description of the disqualifying or potentially disqualifying criteria
 - How findings are handled
 - The applicant's rights to challenge findings
 - Statement of privacy protection and appropriate record keeping practices
 - Statement concerning the frequency with which an organization will conduct and refresh criminal background checks
 - Compliance with national, state and local laws

CRIMINAL BACKGROUND CHECK POLICY

All applicants will be asked to undergo a criminal background check that complies with the Fair Credit Reporting Act **before** providing services for CLUB. Through this criminal background check, CLUB will utilize reasonable efforts to ascertain past criminal history of an applicant.

PROCESS

The Criminal Background Check Consent and Waiver Release form must be submitted and the applicant cleared before he or she may perform services for CLUB.

On receipt of the Criminal Background Check Consent and Waiver Release form, the CLUB will request that its vendor perform the criminal background check. As part of its criminal background check, CLUB will, at a minimum and without limitation,

- (1) perform a national search of state criminal repositories;
- (2) perform a search of state sexual offender registries; and
- (3) verify a person's identification against his or her social security number or other personal identifier.

POTENTIALLY DISQUALIFYING FACTORS

Criminal History

CLUB will use a criminal background check to gather information about an applicant's prior criminal history. The information revealed by the criminal background check may disqualify an applicant from serving as a staff member, contractor and/or volunteer.

Information that could disqualify an applicant includes, but is not limited to, arrests, pleas of no contest and criminal convictions—especially if the underlying criminal behavior involved sex or violence.

Pending Court Cases

No decision will be made on an individual's eligibility for work as a new staff member, contractor and/or volunteer if they have a pending court case for any of the potentially disqualifying offenses until the pending case concludes. If, however, during the case's pendency, the organization undertakes an independent investigation and conducts a hearing, any determination may be used to disqualify the individual.

Full Disclosure

Each applicant has the affirmative duty to disclose his or her criminal history. Failing to disclose or intentionally misrepresenting an arrest plea or conviction history in an application or any other information provided by an applicant during the screening process is grounds for employment, volunteer and/or membership revocation or restriction, regardless of when the offense is discovered.

- If an applicant (1) is arrested, (2) pleas or (3) is convicted of a crime other than a traffic offense during the screening process, the applicant is required to disclose such information immediately.
- In the event a person is serving as a staff member, contractor or volunteer and (1) is arrested,

(2) pleas or (3) is convicted after the completion of the screening process, he or she has an affirmative duty to disclose such information immediately to his or her supervisor or CLUB administrator.

- **Any applicant who has been banned by another sport organization, as temporarily or permanently ineligible, must self-disclose this information. A failure to disclose is a basis for disqualification for potential applicants.**

FINDINGS

Notice of findings will be provided to:

- (1) The designated contact of [TITLE/CLUB] that submitted the application;
- (2) [OTHER DESIGNATED AUTHORITY/CLUB, WHERE RELEVANT];
- (3) [OTHER DESIGNATED INDIVIDUALS, WHERE NECESSARY TO PROTECT THE SAFETY OF MINORS]

ORGANIZATION'S criminal background check report will return a "red light" or "green light" score. A green light score means that the background check vendor located no records that would disqualify the applicant. A green light score, however, is not a certification of safety or permission to bypass/ignore other screening efforts. Other disqualifying factors may exist, and can be revealed through an interview, reference checks and a completed application.

Note: A "green light" finding does not mean that an individual is safe to work with children. Instead a "green light" indicates that no criminal history was found that would disqualify the individual from working with children.

A **red light** finding means the criminal background check revealed criminal records which suggest the applicant "does not meet the criteria" and is not suitable for organization employment or volunteer assignment.

Individuals who are subject to disqualification under a "red light" finding may challenge the accuracy of the reported information reported by the criminal background check vendor.

OPTION ONE: Appeal to Organization

APPEAL TO ORGANIZATION

If an individual receives a red light finding and wants to contest the CLUB's decision not to accept his or her application based on the red light finding, the individual may request a hearing before CLUB'S Review Panel. The Review Panel will consist of: TITLE OF EACH OFFICIAL.

The Review Panel will communicate its finding to the individual and TITLES. If the individual disagrees with the finding of the Review Panel, he or she may request an appeal with APPEAL BODY. A decision rendered by the APPEAL BODY shall be final and binding on all parties.

DISCRETION

If any discretion is exercised in the application of this policy, it shall be exercised in a uniform manner so that substantially similar convictions and circumstances result in substantially similar treatment of applicants.

--END OPTION ONE--

OPTION TWO: Appeal to Criminal Background Check Vendor

APPEAL TO CRIMINAL BACKGROUND CHECK VENDOR

Any disqualified individual has the right to dispute the findings of the criminal background check directly with the CLUB's approved Criminal Background Check Vendor. A disqualified individual may not appeal the automatic disqualification or the results of the findings of the criminal background check vendor to the LOCAL/REGIONAL/NATIONAL CLUB. Each LOCAL/REGIONAL CLUB is required by the policy to accept the findings of the approved criminal background check vendor.

Individuals automatically disqualified are excluded from participation in any CLUB sanctioned events and/or activities.

--END OPTION TWO--

FREQUENCY OF CRIMINAL BACKGROUND CHECKS

Criminal background checks will be refreshed every X years or as otherwise required by law, for staff members and/or volunteers who are 18 years of age or older and perform services for CLUB.

AFFIRMATIVE DUTY TO DISCLOSE

If, during the course of employment or participation in CLUB's program, a staff member or volunteer is accused, arrested, indicted or convicted of a criminal offense against a child, it is the duty and responsibility of the staff member or volunteer to notify an immediate supervisor, a CLUB administrator or a member of the CLUB's Participant Safety Committee.

OTHER POTENTIALLY DISQUALIFYING FACTORS

Even if an applicant passes a criminal background check, other factors may disqualify an applicant. An individual may be disqualified and prohibited from providing services for CLUB if the individual has:

- Been held liable for civil penalties or damages involving sexual or physical abuse of a minor

- Been subject to any court order involving any sexual or physical abuse of a minor, including but not limited to domestic order or protection
- A history with another organization (employment, volunteer, etc.) of complaints of sexual or physical abuse of minors
- Resigned, been terminated or been asked to resign from a position paid or unpaid due to complaint(s) of sexual or physical abuse of minors
- A history of other behavior that indicates they may be a danger to participants in CLUB; or
- Not met the job requirements

REVIEW OF DISQUALIFIERS

CLUB will review its disqualifiers every two years or as otherwise required or modified by law.

RECORDS

Records are secured onsite for a period indicated by applicable law or until the applicant is no longer affiliated with CLUB, whichever date is later.

Work with legal counsel to determine the impact of applicable statutes of limitation on record-keeping.



Strategy 3:

Establishing Boundaries

SafeSport | WHERE YOUR GAME PLAN STARTS

ATHLETE PROTECTION POLICY

What

An athlete protection policy describes the organization's commitment to promoting athlete safety by describing prohibited conduct.

Why

The absence of clear behavioral boundaries is a significant risk factor for misconduct. If inappropriate conduct is not clear to sport stakeholders, unacceptable situations may otherwise be tolerated and no disciplinary action taken. Unclear boundaries can also lead to inadvertent misconduct (e.g., where a coach models behavior that he or she experienced as an athlete without realizing its negative effects).

An athlete protection policy clarifies to all stakeholders that the organization is committed to creating a safe and positive environment for athletes. It also emphasizes and sets forth standards of behavior that clearly outline unacceptable behaviors, minimize opportunities for misconduct, and help to prevent unfounded allegations.

Elements

- ☐ States commitment to athlete safety
- ☐ Describes to whom the policy applies (e.g., those individuals within the organization's control)
- ☐ Defines child sexual abuse and all other forms of misconduct in sport:
 - Emotional, physical and sexual misconduct in sport
 - Bullying, harassment and hazing in sport
- ☐ Prohibits all forms of misconduct in sport
- ☐ Meets or exceeds requirements of relevant standard of care or legislation
- ☐ States who shall/may report suspected misconduct
- ☐ States to whom a report should be made within the organization
- ☐ Describes how the organization will address violations of the athlete protection policy

ATHLETE PROTECTION POLICY

COMMITMENT TO SAFETY

Overview

In the event that any staff member or volunteer observes inappropriate behaviors (i.e., policy violations), suspected physical or sexual abuse, or misconduct, it is the personal responsibility of each staff member and volunteer to immediately report his or her observations to an immediate supervisor, an ORGANIZATION administrator or a member of ORGANIZATION'S Participant Safety Committee.

CLUB is committed to creating a safe and positive environment for athletes' physical, emotional and social development and to ensuring that it promotes an environment free of misconduct.

Staff members and volunteers should not attempt to evaluate the credibility or validity of child physical or sexual abuse allegations as a condition for reporting to appropriate law enforcement authorities. Instead, it is the responsibility of each staff member and volunteer to immediately report suspicions or allegations of child physical or sexual abuse to an immediate supervisor, ORGANIZATION administrator or a member of CLUB'S Participant Safety Committee. Complaints and allegations will be addressed under ORGANIZATION'S Disciplinary Rules and Procedure.

CLUB recognizes that the process for training and motivating athletes will vary with each coach and athlete, but it is nevertheless important for everyone involved in sport to support the use of motivational and training methods that avoid misconduct.

Application

This Policy applies to

- Staff members and volunteers
- CLUB'S athletes and participants

Staff members, volunteers, athletes and participants shall refrain from all forms of misconduct, which include:

- Bullying
- Harassment
- Hazing
- Emotional misconduct
- Physical misconduct
- Sexual misconduct, including child sexual abuse.

PROHIBITED CONDUCT

Child Sexual Abuse

- (1) Any sexual activity with a child where consent is not or cannot be given. This includes sexual contact with a child that is accomplished by deception, manipulation, force or threat of force, regardless of the age of the participants, and all sexual interactions between an adult and a child, regardless of whether there is deception or the child understands the sexual nature of the activity.

Note concerning peer-to-peer child sexual abuse: Sexual contact between minors also can be abusive. Whether or not a sexual interaction between children constitutes child sexual abuse turns on the existence of an aggressor, the age difference between the children, and/or whether there is an imbalance of power and/or intellectual capabilities.

- (2) Any act or conduct described as child sexual abuse under federal or state law.

Exception

None

Examples

Sexually abusive acts may include sexual penetration, sexual touching or non contact sexual acts such as verbal acts, sexually suggestive electronic or written communications, exposure or voyeurism.

Emotional Misconduct

- (1) A pattern of deliberate, non contact behavior that has the potential to cause emotional or psychological harm to an athlete. Non contact behaviors include:
 - a. verbal acts
 - b. physical acts
 - c. acts that deny attention or support
- (2) Any act or conduct described as emotional abuse or misconduct under federal or state law (e.g. child abuse, child neglect).

Exception

Emotional misconduct does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, discipline or improving athletic performance.

Examples

Examples of emotional misconduct prohibited by this policy include, without limitation:

- (1) **Verbal Acts.** A pattern of verbal behaviors that (a) attack an athlete personally (e.g., calling them worthless, fat or disgusting) or (b) repeatedly and excessively yelling at a particular participant or participants in a manner that serves no productive training or motivational purpose.
- (2) **Physical Acts.** A pattern of physically aggressive behaviors, such as (a) throwing sport equipment, water bottles or chairs at, or in the presence of, participants; or (b) punching walls, windows or other objects.
- (3) **Acts that Deny Attention and Support.** A pattern of (a) ignoring an athlete for extended periods of time or (b) routinely or arbitrarily excluding participants from practice.

Note: Bullying, harassment, and hazing, defined below, often involve some form of emotional misconduct.

Physical Misconduct

- (1) Contact or non contact conduct that results in, or reasonably threaten to, cause physical harm to an athlete or other sport participants; or
- (2) Any act or conduct described as physical abuse or misconduct under federal or state law (e.g. child abuse, child neglect, assault).

Exceptions

Physical misconduct does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline or improving athlete performance. For example, hitting, punching, and kicking are well regulated forms of contact in combat sports, but have no place in swimming.

Examples

Examples of physical misconduct prohibited by this Policy include, without limitation:

- (1) **Contact offenses.** Behaviors that include:
 - (a) punching, beating, biting, striking, choking or slapping an athlete;
 - (b) intentionally hitting an athlete with objects or sporting equipment;
 - (c) providing alcohol to an athlete under the legal drinking age (under U.S. law);
 - (d) providing illegal drugs or non prescribed medications to any athlete;
 - (e) encouraging or permitting an athlete to return to play pre maturely following a serious injury (e.g., a concussion) and without the clearance of a medical professional;

(f) prescribing dieting or other weight control methods (e.g., weigh ins, caliper tests) without regard for the nutritional well being and health of athlete.

(2) **Non-contact offenses.** Behaviors that include:

- (a) isolating an athlete in a confined space (e.g., locking an athlete in a small space);
- (b) forcing an athlete to assume a painful stance or position for no athletic purpose (e.g. requiring an athlete to kneel on a harmful surface);
- (c) withholding, recommending against or denying adequate hydration, nutrition, medical attention or sleep.

Note: Bullying, harassment and hazing, defined below, often involve some form of physical misconduct.

Sexual Misconduct

- (1) Any touching or non touching sexual interaction that is (a) nonconsensual or forced, (b) coerced or manipulated, or (c) perpetrated in an aggressive, harassing, exploitative or threatening manner;
- (2) Any sexual interaction between an athlete and an individual with evaluative, direct or indirect authority. Such relationships involve an imbalance of power and are likely to impair judgment or be exploitative; or
- (3) Any act or conduct described as sexual abuse or misconduct under federal or state law (e.g. sexual abuse, sexual exploitation, rape)

Note: An imbalance of power is always assumed between a coach and an athlete.

Types of Sexual Misconduct

Types of sexual misconduct include:

- (1) sexual assault,
- (2) sexual harassment,
- (3) sexual abuse, or
- (4) any other sexual intimacies that exploit an athlete. **Minors cannot consent to sexual activity with an adult**, and all sexual interaction between an adult and a minor is strictly prohibited.

Exceptions

None

Examples

Examples of sexual misconduct prohibited under this Policy include, without limitation:

- (1) **Touching offenses.** Behaviors that include:
 - (a) fondling an athlete's breasts or buttocks
 - (b) exchange of reward in sport (e.g., team placement, scores, feedback) for sexual favors
 - (c) genital contact
 - (d) sexual relations or intimacies between persons in a position of trust, authority and/or evaluative and supervisory control over athletes or other sport participants.

Comment

(1) Authority and Trust. Once the unique coach athlete relationship is established, the authority and trust on the part of the coach over the athlete shall be assumed, regardless of age. Accordingly, sexual interaction or intimacies between a coach and an athlete or other participant are prohibited, regardless of age, both during coaching and during that period following coaching if an imbalance in power could jeopardize effective decision making.

Imbalance of Power. Factors relevant to determining whether there is an imbalance of power include, but are not limited to: (a) the nature and extent of the coach's supervisory, evaluative or other authority over the athlete being coached; (b) the actual relationship between the parties; (c) the parties' respective roles; (d) the nature and duration of the sexual relations or intimacies; (e) the age of the coach; (f) the age of the athlete or participant; (g) and whether the coach has engaged in a pattern of sexual interaction with other athletes or participants.

(2) Exception. This section does not apply to a pre existing relationship between two spouses or life partners.

- (2) **Non-touching offenses.** Behaviors that include:
 - (a) a coach discussing his or her sex life with an athlete
 - (b) a coach asking an athlete about his or her sex life
 - (c) coach requesting or sending a nude or partial dress photo to athlete
 - (d) exposing athletes to pornographic material
 - (e) sending athletes sexually explicit or suggestive electronic or written messages or photos (e.g. "sexting")
 - (f) deliberately exposing an athlete to sexual acts
 - (g) deliberately exposing an athlete to nudity (except in situations where locker rooms and changing

areas are shared)

- (h) sexual harassment; specifically, the sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, and
 - a. is unwelcome, offensive or creates a hostile environment, and the offending individual knows or is told this
 - b. is sufficiently severe or intense to be harassing to a reasonable person in the context.

Bullying

- (1) An intentional, persistent and repeated pattern of committing or willfully tolerating physical and non physical behaviors that are intended, or have the reasonable potential, to cause fear, humiliation or physical harm in an attempt to socially exclude, diminish or isolate the targeted athlete(s), as a condition of membership
- (2) Any act or conduct described as bullying under federal or state law

Exceptions

Bullying does not include group or team behaviors that (a) are meant to establish normative team behaviors, or (b) promote team cohesion.

For example, bullying does not include verbal admonitions to encourage team members to train harder and to push through a difficult training regimen.

Examples

Examples of bullying prohibited by this Policy include, without limitation:

- (1) **Physical behaviors.** Behaviors that include (a) hitting, pushing, punching, beating, biting, striking, kicking, choking, or slapping an athlete; (b) throwing at, or hitting an athlete with, objects such as sporting equipment.
- (2) **Verbal and emotional behaviors.** Behaviors that include (a) teasing, ridiculing, intimidating; (b) spreading rumors or making false statements; or (c) using electronic communications, social media, or other technology to harass, frighten, intimidate or humiliate ("cyber bullying").

Harassment

- (1) A repeated pattern of physical and/or non physical behaviors that (a) are intended to cause fear, humiliation or annoyance, (b) offend or degrade, (c) create a hostile environment or (d) reflect discriminatory bias in an attempt to establish dominance, superiority or power over an individual athlete or group based on gender, race, ethnicity, culture, religion, sexual orientation, gender expression or mental or physical disability; or
- (2) Any act or conduct described as harassment under federal or state law

Exceptions

None

Examples

Examples of harassment prohibited by this Policy include, without limitation:

- (1) **Physical offenses.** Behaviors that include (a) hitting, pushing, punching, beating, biting, striking, kicking, choking or slapping an athlete or participant; (b) throwing at or hitting an athlete with objects including sporting equipment.
- (2) **Non-physical offenses.** Behaviors that include (a) making negative or disparaging comments about an athlete's sexual orientation, gender expression, disability, religion, skin color, or ethnic traits; (b) displaying offensive materials, gestures, or symbols; (c) withholding or reducing playing time to an athlete based on his or her sexual orientation.

Hazing

- (1) Coercing, requiring, forcing or willfully tolerating any humiliating, unwelcome or dangerous activity that serves as a condition for (a) joining a group or (b) being socially accepted by a group's members;
or
- (2) Any act or conduct described as hazing under federal or state law

Exception

Hazing does not include group or team activities that (a) are meant to establish normative team behaviors or (b) promote team cohesion.

Examples

Examples of hazing prohibited by this Policy include, without limitation:

- (1) requiring, forcing or otherwise requiring the consumption of alcohol or illegal drugs
- (2) tying, taping or otherwise physically restraining an athlete
- (3) sexual simulations or sexual acts of any nature
- (4) sleep deprivation, otherwise unnecessary schedule disruption or the withholding of water and/or food
- (5) social actions (e.g. grossly inappropriate or provocative clothing) or public displays (e.g. public nudity) that are illegal or meant to draw ridicule
- (6) beating, paddling or other forms of physical assault
- (7) excessive training requirements focused on individuals on a team

Comment: Activities that fit the definition of hazing are considered to be hazing regardless of an athlete's willingness to cooperate or participate.

WILLFULLY TOLERATING MISCONDUCT

It is a violation of this Athlete Protection Policy if a staff member and/or volunteer knows of misconduct, but takes no action to intervene on behalf of the athlete(s), participant(s), staff member, and/or volunteer.

REPORTING

Although these policies are designed to reduce child sexual abuse and other misconduct, it can still occur. Staff members, volunteers and participants of CLUB shall follow the reporting procedures set forth in CLUB'S Reporting Policy. **CLUB does not investigate suspicions or allegations of child physical or sexual abuse, or attempt to evaluate the credibility or validity of such allegations, as a condition of reporting suspicions or allegations to the appropriate law enforcement authorities.**

VIOLATIONS

Violations of the Athlete Protection Policy shall be reported pursuant to our Reporting Policy and will be addressed under our Disciplinary Rules and Procedure.



Strategy 5:

Responding to Abuse, Misconduct and Policy Violations

SafeSport | WHERE YOUR GAME PLAN STARTS

RESPONDING TO ABUSE, MISCONDUCT AND POLICY VIOLATIONS

What

A response plan and reporting policy addresses allegations of misconduct falling within an organization's athlete protection or other relevant policy. It states the organization's commitment to providing safe training environments, reporting potential misconduct to the appropriate organizational channels and relevant agencies, as applicable, and resolving allegations in a prompt and fair manner.

Why

The lack of or absence of guidance on when and how to report suspected misconduct is a significant barrier to disclosing misconduct, including child physical and sexual abuse. Without training in this area, sport stakeholders may feel ill-prepared, powerless and lost when it comes to responding to and reporting misconduct. Other stakeholders must also be able to recognize misconduct and to know how to respond.

It is also critical that staff members and/or volunteers understand that they should not attempt to evaluate the credibility or validity of child physical or sexual abuse allegations as a condition for reporting to the sport organization or to appropriate law enforcement authorities.

A reporting policy clarifies to all participants, staff, volunteers, responsible parties and members of the public that the organization understands its duty and responsibility to create a safe and positive environment for athletes. This statement also further reinforces the organization's commitment to athlete safety.

Elements

- ☐ Describes reporting procedures
- ☐ Identifies to whom stakeholders should report
- ☐ Establishes a direct-line and back-up reporting system
- ☐ Provides complainant protection, where reasonable or legally possible and prohibits retaliation
- ☐ Prohibits malicious, frivolous or bad-faith allegations

REPORTING POLICY

Consult with legal counsel when developing a reporting policy to determine what law(s) govern your reporting responsibilities and to ensure that your reporting policy complies with state and federal law.

REPORTING POLICY

Every CLUB staff member and/or volunteer must report:

- (1) violations of the Participant Safety Handbook,
- (2) misconduct as defined in CLUB's Athlete Protection Policy, and
- (3) suspicions or allegations of child physical or sexual abuse.

As a matter of policy, CLUB does not investigate suspicions or allegations of child physical or sexual abuse or attempt to evaluate the credibility or validity of such allegations as a condition for reporting to the appropriate law enforcement authorities.

Reporting Child Physical or Sexual Abuse

Child Physical or Sexual Abuse

Staff members and/or volunteers at CLUB are required to report suspicions or allegations of child sexual abuse by a colleague or co-worker, to:

- (1) their immediate supervisor,
- (2) a CLUB administrator,
- (3) a member of CLUB's Participant Safety Committee and,
- (4) where applicable, **appropriate law enforcement authorities.**

Grooming

Because sexual abusers "groom" children for abuse – the process used by offenders to select a child, to win the child's trust (and the trust of the child's parent or guardian), to manipulate the child into sexual activity and to keep the child from disclosing abuse – it is possible that a staff member and/or volunteer may witness behavior intended to groom a child for sexual abuse. All questions or concerns related to inappropriate, suspicious or suspected grooming behavior should be directed to an immediate supervisor, a CLUB administrator or a member of the CLUB Participant Safety Committee.

Peer-to-Peer Sexual Abuse

Approximately 1/3 of all child sexual abuse occurs at the hands of other children and the obligation to report extends to peer-to-peer child sexual abuse. Whether or not a sexual interaction between children constitutes child sexual abuse turns on the existence of an aggressor, the age difference between the children, and/or whether there is an imbalance of power or intellectual capabilities. **If you have any concerns that an interaction between children may constitute sexual abuse, report it to the appropriate law enforcement authorities and a CLUB supervisor, a CLUB administrator or a member of CLUB's Participant Safety Committee immediately.**

Reporting Misconduct and Policy Violations

If any staff member and/or volunteer receives an allegation or observes misconduct or other inappropriate behavior, such as grooming, that is not reportable to the appropriate law enforcement authorities, it is the responsibility of each staff member and/or volunteer to report their observations to:

- (1) their immediate supervisor,
- (2) a CLUB administrator or
- (3) a member of CLUB's Participant Safety Committee.

CLUB also encourages member parents, athletes and other sport participants to communicate violations of CLUB's Participant Safety Handbook and/or allegations and suspicions of child physical and sexual abuse to a CLUB administrator or member of CLUB's Participant Safety Committee. Where applicable, parents may also report to the appropriate law enforcement authorities.

REPORTING PROCEDURE

To Whom to Report

Staff members and volunteers may report to any supervisor or CLUB administrator with whom they are comfortable sharing their concerns. You may also report to any member of its Participant Safety Committee, which includes the following three designated Incident Review Officials (IROs):

- NAME/TITLE/CONTACT INFORMATION
- NAME/TITLE/CONTACT INFORMATION
- NAME/TITLE/CONTACT INFORMATION

A staff member and/or volunteer may, and in many cases must, report any allegation of child physical or sexual abuse to relevant law enforcement authorities.

How to Report

CLUB will take a report in the way that is most comfortable for the person initiating a report including an anonymous, in-person, verbal or written report. Regardless of how you choose to report, it is helpful to CLUB for individuals to provide, at a minimum, (1) the name of the complainant(s); (2) the type of misconduct alleged and the name(s) of the individual(s) alleged to have committed the misconduct.

Reporting Form

Individuals reporting child physical or sexual abuse or other misconduct may complete an Incident Report Form. Information on this form will include:

- 1) the name(s) of the complainant(s)
- 2) the type of misconduct alleged
- 3) the name(s) of the individual(s) alleged to have committed the misconduct
- 4) the approximate dates the misconduct was committed
- 5) the names of other individuals who might have information regarding the alleged misconduct
- 6) a summary statement of the reasons to believe that misconduct has occurred

CLUB will withhold the complainant's name on request, to the extent permitted by law.

A copy of CLUB'S Reporting Form can be found at: [LOCATION(S)].

See Part 2, Sample Forms and Documents for a Sample Reporting Form

CONFIDENTIALITY, ANONYMOUS REPORTING AND BAD-FAITH ALLEGATIONS

Confidentiality

To the extent permitted by law, and as appropriate, CLUB will keep confidential the complainant's name on request, not make public the names of potential victims, the accused perpetrator or the people who made a report of child physical and sexual abuse to the authorities.

Work with legal counsel to ensure that your organization's confidentiality policy is consistent with relevant state and federal statutes.

Anonymous Reporting

CLUB recognizes it can be difficult for an athlete, teammate, friend or family member to report an allegation of misconduct and strives to remove as many barriers to reporting as possible. **Anonymous reports may be made without the formality of completing an Incident Report Form:**

- by completing the Reporting Form without including their name
- by expressing concerns verbally to a CLUB administrator or a member of CLUB's Participant Safety Committee
- through email, texts or notes left for a CLUB administrator or a member of CLUB's Participant Safety Committee.

However, anonymous reporting may make it difficult for CLUB to investigate or properly address allegations.

All suspicions of child physical or sexual abuse will be reported to the appropriate law enforcement authorities.

“Whistleblower” Protection

Regardless of outcome, CLUB will support the complainant(s) and his or her right to express concerns in good faith. CLUB will not encourage, allow or tolerate attempts from any individual to retaliate, punish, allow or in any way harm any individual(s) who reports a concern in good faith. Such actions against a complainant will be considered a violation of our Participant Safety Handbook and grounds for disciplinary action.

Bad-Faith Allegations

A report of abuse, misconduct or policy violations that is malicious, frivolous or made in bad faith is prohibited. Such reports will be considered a violation of our Participant Safety Handbook and grounds for disciplinary action. Depending on the nature of the allegation, a person making a malicious, frivolous or bad-faith report may also be subject to civil or criminal proceedings.

HOW REPORTS ARE HANDLED

Suspicions or Allegations of Child Physical or Sexual Abuse

Reporting to Law Enforcement and/or Child Protective Services

An independent investigation can harm youth and/or interfere with the legal investigative process. CLUB, its staff members and/or volunteers **do not attempt to evaluate the credibility or validity of child physical or sexual abuse as a condition for reporting to appropriate law enforcement authorities.** As necessary, however, CLUB may ask a few clarifying questions of the minor or person making the report to adequately report the suspicion or allegation to law enforcement authorities.

For mandatory reporting laws, visit www.childwelfare.gov.

Immediate Suspension or Termination

When an allegation of child physical or sexual abuse is made against a staff member, youth and/or volunteer, CLUB may immediately remove that individual from contact with any children in the program until the allegation has been investigated by an official agency. As necessary, CLUB may suspend or change the assignment of a staff member and/or volunteer.

In those cases where the Ted Stevens Act may apply, the accused individual will be offered a hearing. A hearing under the Ted Stevens Act will not necessarily affect CLUB’s ability to immediately suspend or terminate the accused individual from employment or performing services for organization.

A staff member or volunteer’s failure to report to a supervisor, a CLUB administrator or member of the Participant Safety Committee is a violation of this policy and grounds for termination of a staff member and/or dismissal of a volunteer.

Consult an attorney to be certain that your employment actions are consistent with relevant law.

Misconduct and Policy Violations

CLUB addresses internally alleged policy violations and misconduct – bullying, harassment, hazing, emotional, physical and sexual – that are not reportable under relevant state or federal law. Staff members and/or volunteer must report policy violations and misconduct to an immediate supervisor, CLUB administrator or member of CLUB's Participant Safety Committee.

CLUB may also investigate allegations of child physical or sexual abuse that are reportable, if such investigation does not interfere with any ongoing criminal investigation or prosecution for abuse. Such allegations may include:

- Emotional abuse
- Abuse reported outside the relevant statutes of limitation
- Allegations of abuse that were reported to authorities, but: (a) legal authorities did not press criminal charges; (b) criminal charges were filed, but not pursued to trial; or (c) the alleged offender was acquitted at trial

NOTIFICATION

Following CLUB's notice of a credible allegation that results in the removal of an employee, coach or other volunteer, CLUB may consider the circumstances in which it will notify other parents of athletes with whom the accused individual may have had contact. In CLUB's discretion, as appropriate, and after consultation with counsel, CLUB may notify its staff members, contractors, volunteers, parents, and/or athletes of any allegation of child physical or sexual abuse or other criminal behavior that (1) law enforcement authorities are actively investigating; or (2) that CLUB is investigating internally. Advising others of an allegation may lead to additional reports of child physical or sexual abuse and other misconduct.

DISCIPLINARY RULES AND PROCEDURE

What

Establishes an organization's plan for responding to alleged violations of child physical or sexual abuse and other misconduct and sets forth the organization's commitment to a fair and transparent process.

Why

Prepares an organization and its participants to know, in advance of a report, how it will handle alleged violations of its Participant Safety Handbook.

Elements

- ☐ Describes procedure for investigating allegations, where appropriate
- ☐ Sets forth procedures for resolving allegations
- ☐ Identifies procedural safeguards
- ☐ Identifies possible sanctions for violations of the athlete protection policy

EXHIBIT 5

Message

From: Malia Arrington [/O=USOC/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ARRINGTONM]
Sent: 10/26/2011 6:22:19 PM
To: Anthony Bartkowski [/o=USOC/ou=First Administrative Group/cn=Recipients/cn=AnthonyBartkowski]; Bill Marolt [bmarolt@ussa.org]; Bob Crowley [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e769a241a72a4edd811758b7ba800001-Bob Crowley]; Chris Ramsey [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=df31fdfb3d274c4295fbc355323f347d-Chris Ramse]; Chuck Wielgus [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=25521e33dfb1469b87f068085f4c6409-Chuck Wielg]; Dan Cloppas [dcloppas@aol.com]; Dan Flynn [dFlynn@usasoccer.org]; Darrin Steele [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1f371419ddb47348e3b471b5388363c-Darrin Stee]; Dave O'grean [daveo@usahockey.org]; David Raith [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc3c3aab19114eb28b17ffbc8cccb088-David Raith]; Denise Parker [dparker@usaarchery.org]; Doug Beal [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=385df956e3d74da2b1f837c364e0be26-Doug Beal]; Glenn Merry [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a75b3278bf344f5aa095a9830432d06c-Glenn Merry]; **Gordon Smith** [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=44b60dbd1905416eb4566b64bf20217b-Gordon Smit]; Greg Dilworth [g.dilworth@usafencing.org]; Jack Gierhart [jackgierhart@usasailing.org]; Jim Hiser [/o=USOC/ou=First Administrative Group/cn=Recipients/cn=JimHiser]; Jim Tooley [jtooley@usabasketball.com]; Joe Jacobi [joe@usack.org]; John Duff [/o=USOC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=duffj]; John Long [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f8c74b3d3764250acb4750a8a53f508-John Long]; Jose Rodriguez [/o=usoc/ou=first administrative group/cn=recipients/cn=rodriguezj61293275]; Kevin Klipstein [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2c291d29b6604b6b99095c8139b57ebc-Kevin Klips]; Linda Paul [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9bccbf7db0e4f97b3cff3e550ee247d-Linda Paul]; Luke St. Onge [lstonge@usankf.org]; Mark Greenwald [markgreenwald@usspeedskating.com]; Max Cobb [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=be9ea7f3d23046878f6c342bf337c0f-Max Cobb_a4]; Mike Cavanaugh [/o=usoc/ou=first administrative group/cn=recipients/cn=cavanaughm]; Nigel Melville [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=72b5f8319c124dcbaaf60f875cd67a43-Nigel Melvi]; Paul Seiler [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5486b22d32c488ea6ce68585604e5a1-Paul Seiler]; Rich Bender [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d85cd0783014b6fb3a78142af8e770f-Rich Bender]; Richard Hawkins [/o=USOC/ou=First Administrative Group/cn=Recipients/cn=RichardHawkins]; Rick Patzke [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4b6c99fa8c6f4337b980669f0a6695cc-Rick Patzke]; Rob Stull [robstull@aol.com]; Rob Urbach [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=57ecd3b1539b40f2b4d01f1e25d483b9-Rob Urbach_]; Robert Mitchell [/o=usoc/ou=first administrative group/cn=recipients/cn=mitchellr]; Ron Radigonda [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a517fbb01cfe4b8bbd1b28cca75b8459-Ron Radigon]; Ron Rossi [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=92822759a0564d79b800a9086f6a963b-Ron Rossi]; Stephanie Hightower [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0755d98eb74a40e480c7bd4a6451c726-Stephanie H]; Steve Johnson [/o=USOC/ou=First Administrative Group/cn=Recipients/cn=SteveJohnson]; Steve Locke [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b442ac2d0e764200bcf95f9616f80add-Steve Locke]; Steve Pastorino (Team Handball) [/o=USOC/ou=First Administrative Group/cn=Recipients/cn=StevePastorino]; Steve Penny [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f03761fdb3814c92b752ac3952c821b7-StevePenny_]; Stu Upson

[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=efd906dd26ba406fb62c318e94888902-Stu Upson_4]; Terry Harper
[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5aa3a5e11c6147d5ba3061c184d72071-Terry Harpe]; Mike McNees
[/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9007cc7f9de84af09256820b18426491-Mike McNee]; Eric Parthen
[/o=USOC/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=parthene]
CC: Rick Adams [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=67c24e1a8de34410888a16fb1a078769-Rick Adams...]
Subject: Comment Period for Draft SafeSport Handbook
Attachments: FINAL DRAFT SSH Administrators 10.26.11.pdf

As discussed at Olympic Assembly, I have attached the Draft SafeSport Handbook for your review and comment. The Handbook is intended to guide the development, implementation, and internal review of effective athlete welfare and maltreatment prevention policies and addresses six types of athlete maltreatment: emotional, physical, sexual, bullying, harassment, and hazing.

Once finalized, we anticipate that NGBs will customize the policies in a way that meets the needs of the individual NGB. ***However, NGBs will not be required to adopt the policies contained in the final Handbook. Furthermore, we urge NGBs that do choose to use a policy to modify and adopt it in consultation with counsel.***

Comment period

The comment period will be four weeks: October 26, 2011 to November 30, 2011.

The primary purpose of the comment period is to obtain substantive feedback on the Draft Handbook and create a consensus approach for addressing maltreatment. After the comment period closes, we will review everyone's feedback and incorporate as many comments as practical.

What's in the draft?

The Draft Handbook contains: 1) Policy Guidelines, and 2) Policy Templates.

Part 1 – Policy Guidelines

The Policy Guidelines provide a framework for adopting policies to address athlete welfare and the high-risk opportunities for maltreatment. Included within each policy outline is a brief description and purpose for the policy, as well as (1) Essential Elements for a particular policy, (2) Implementation Criteria that can be used as an implementation checklist, and (3) Implementation Records, which provides examples of evidence that clubs and organizations can use to conduct internal checks that their policies are being followed.

Part 2 – Policy Templates

Examples and templates of sample policies can be found in Policy Templates, which, once finalized can be downloaded and customized to meet your needs.

What's not in the draft?

Part 3 – Sample Forms and Documents

The Sample Forms and Documents, which are intended to assist in the implementation and administration of athlete maltreatment policies, will be built off of the finalized policies. Consequently, they are not a part of this draft document. However, a proposed list of forms and documents are in the Table of Contents. If you have additional thoughts about forms and documents to include, please provide your suggestions.

How to provide feedback

The Handbook is attached as a .pdf. You can:

- (1) Make comments in the .pdf and send it back to me;
- (2) Provide written comments in a separate document or email; and/or
- (3) Give me a call to discuss your comments or concerns.

If you are unable to make comments in the .pdf, please let me know and I will resend the handbook as a Word document.

A few pieces of miscellany: (1) This document is confidential and intended for internal distribution only; and (2) This document does not constitute USOC policy and is under internal review. Once finalized, the document will be publicly available through the SafeSport Website.

Please let me know if you can't open the document or have questions about this process. Thank you, in advance, for your feedback – I know how busy everyone is!

Best, Malia



Malia S. Arrington

Director, Ethics and Safe Sport

United States Olympic Committee
1 Olympic Plaza
Colorado Springs, CO 80909

719-866-5093 office
719-866-4839 fax

malia.arrington@usoc.org

SafeSport Handbook

FOR ADMINISTRATORS



Where your game plan starts

Contents

Introduction	1
PART 1: POLICY GUIDELINES	
Section 1.0 – Athlete Protection Policy	4
Section 2.0 – Codes of Conduct	6
Section 3.0 – Applicant Screening and Criminal Background Checking	8
Section 4.0 – Locker Rooms and Changing Areas	10
Section 5.0 – Mobile and Electronic Communications	11
Section 6.0 – Privacy	12
Section 7.0 – Travel	13
Section 8.0 – Physical Contact with Athletes	15
Section 9.0 – Maltreatment Prevention Education and Training	17
Section 10.0 - Maltreatment Reporting and Adjudication Procedure	19

PART 2: POLICY TEMPLATES

Section 1.0 – Athlete Protection Policy 21

- 1.1 Definitions of Maltreatment
- 1.2 Athlete Protection Philosophy

Section 2.0 – Codes of Conduct 28

- 2.1 Coach Code of Conduct
- 2.2 Staff Member Code of Conduct
- 2.3 Official Code of Conduct
- 2.4 Volunteer Code of Conduct
- 2.5 Parent/Guardian Code of Conduct
- 2.6 Athlete Code of Conduct
- 2.7 Reporting and Determining Code of Conduction Violations

Section 3.0 – Applicant Screening and Criminal Background Checking 36

- 3.1 Applications
- 3.2 Interviewing
- 3.3 References
- 3.4 Background Checks
- 3.6 Frequency of Background Checks
- 3.7 Review of Disqualifiers
- 3.8 Records

Section 4.0 – Locker Rooms and Changing Areas 42

- 4.1 Facilities

- 4.2 Monitoring
- 4.3 Use of Cell Phones and Other Mobile Recording Devices

Section 5.0 – Mobile and Electronic Communications 44

- 5.1 Expressing Concerns
- 5.2 Communicating with Athletes under Age 18
- 5.3 Athlete Maltreatment
- 5.4 Communicating with Athletes under Age 18

Section 6.0 – Privacy 45

- 6.1 Identifying Images and Information
- 6.2 Records

Section 7.0 – Travel 46

- 7.1 Local Travel and Team Travel
- 7.2 Individual Travel
- 7.3 Travel Notification
- 7.4 Mixed-Gender and Mixed-Age Travel
- 7.5 Coach and Staff Responsibilities
- 7.6 Chaperone Responsibilities
- 7.7 Athlete Responsibilities

Section 8.0 – Physical Contact with Athletes 51

- 8.1 Safety
- 8.2 Celebration
- 8.3 Consolation
- 8.4 Common Criteria for Physical Contact

8.5 Prohibited Physical Contact

Section 9.0 – Maltreatment Prevention Education and Training 53

Section 10.0 – Maltreatment Reporting and Adjudication Procedure 54

10.1 Reporting

10.2 Preliminary Determination

10.3 Adjudication Procedures

10.4 False Reporting

PART 3: Sample Forms and Documents

**TO BE ADDED BASED ON FINAL POLICIES AND TEMPLATES. POTENTIAL FORMS
INCLUDE:**

- Policy Review and Acceptance Forms
- Codes of Conduct for Signature
- Assignment of Incident Review Official and Responsibilities for Signature
- Position Announcement
- Application for Job /Volunteer Opening with Criminal Background Check Authorization
- Interview Questions
- Reference Check Questions
- Cover Letter for Discovery of Disqualifying Criminal Information & Appeal Rights
- Incident Report Form
- Protecting Athletes with Disabilities



United States Olympic Committee

SafeSport Handbook

Introduction

There are a lot of reasons to play sport – at any level. Athletes enjoy a wide range of physical, emotional and social benefits. Sport develops general physical fitness, and physical exertion has a documented positive mental effect. Participation in organized sport also improves motor skills, promotes strategic thinking, and enhances math skills. Athletes have higher graduation rates and are more likely to attend college. They also have a greater sense of self-worth, demonstrate better collaboration skills, and maintain healthier peer relationships. They're less likely to use cigarettes, drugs and alcohol.

But unfortunately, sport can also be a high-risk environment for maltreatment – conduct and behaviors that are considered harmful to the psychological and physical health of athletes, regardless of age.

Maltreatment can damage an athlete's psychological well-being; athletes who have been maltreated experience social embarrassment, emotional turmoil, psychological scars, loss of self-esteem and negative impacts on family, friends, and the sport. Maltreatment often hurts an athlete's competitive performance or causes them to drop out of sport entirely.

In this handbook, the U.S. Olympic Committee (USOC) identifies and describes six types of maltreatment: emotional, physical, sexual, bullying, harassment and hazing. *All forms of athlete maltreatment are intolerable and in direct conflict with the Olympic Ideals.*

The USOC is committed to improving the development, safety, and welfare of athletes and participants involved in sport and publishes this SafeSport Handbook to guide the development, implementation, and internal review of effective athlete welfare and maltreatment prevention policies for sports organizations.

Why “Maltreatment”?

Reflecting the USOC’s broad approach to athlete welfare, the material here applies to all six forms of athlete maltreatment rather than to a narrow definition of “abuse” or “assault.”

“Maltreatment” is a more accurate term for the full range of potential harm to athletes by individuals in positions of authority and by fellow athletes.

In the strict legal sense, the terms abuse or assault can be unduly limiting. Organizations may be held legally liable for maltreatment that doesn’t fit the legal definition of abuse. For example, verbally harassing an individual athlete on the basis of sexuality might result in a lawsuit. The organization might be held liable even though similar behavior by the athlete’s parents might not be grounds for legal action.

Athlete maltreatment can also include behavior that may not result in any sort of legal liability, but is nonetheless damaging to the athlete. For instance, certain cases of hazing or overly-aggressive coaching leading to emotional trauma may be maltreatment.

An individual or organization may also be held responsible for failing to respond to maltreatment other than abuse or assault. Understanding the types of maltreatment and their corresponding indicators provides a basis for determining proper courses of action, which may include the need to file a report with state child protective services.

As the USOC’s goal is to improve the development, safety, and welfare of athletes and other sport participants, broad definitions of maltreatment are used throughout this handbook.

What’s in the Handbook?

This handbook is comprised of three parts: 1) Policy Guidelines, 2) Policy Templates, and 3) Sample Forms and Documents.

Part 1 – Policy Guidelines

The Policy Guidelines provide a framework for adopting policies to address athlete welfare and high-risks of opportunity for maltreatment. Included within each policy outline is a brief description and purpose for the policy, as well as (1) Essential Elements for a particular policy, (2) Implementation Criteria that can be used as an implementation checklist, and (3) Implementation Records, which provide examples of evidence that clubs and organizations can use to conduct internal checks that their policies are being followed.

Part 2 – Policy Templates

Examples and templates of sample policies can be found in Policy Templates, which may be downloaded and customized to meet your organization’s unique needs.

Part 3 – Sample Forms and Documents

The Sample Forms and Documents are intended to assist in the implementation and administration of athlete maltreatment prevention policies.

How to Use the Handbook

There is no way to avoid all risk of athlete maltreatment in sport.

This handbook contains overarching standards, which are intended to be relevant to all sports at all levels. The process of implementing athlete maltreatment strategies takes time and will evolve differently in each organization, and not all policies or documents in this handbook will apply to all sports or their organizing bodies.

Instead, strategies will depend on several factors, such as the activity, the ages of the athletes involved, where the activity takes place, whether there are any special needs within the group, where there are mixed-sex groupings, the experience and qualifications of the organizers, the physical facilities, and state and federal laws.

The USOC thus publishes these practices as guidelines to consider, *while advocating that any policy, form, or document should be adapted to meet your organization's specific needs.* Organizations should consult with legal representation and review state and federal laws before adopting and implementing any of the policies and documents contained in the handbook, as well as any maltreatment prevention strategy.

Nothing contained in this handbook is intended to supersede, replace, or otherwise abrogate section 9 of the USOC bylaws or the Ted Stevens Amateur Act.

DRAFT

2.0 – Codes of Conduct

What

Organizations that provide athlete training or sports competition services to athletes have on record codes of conduct which describe acceptable standards of behavior for all persons who can be expected to come in contact with athletes. These codes promote good practices and outline behavioral norms.

Why

Codes of conduct clarify expectations and behavioral boundaries for every member of the sport community. An athlete protection policy describes behavioral boundaries and prohibited conduct; violations of such a policy may justify strong and permanent sanctions administered through due process.

While codes of conduct set forth prohibited conduct, they also describe what should be done. In this sense, they are aspirational. Deviations from codes of conduct can warrant sanctions if significant, but also leave room for simple corrective actions that can take place in real time. For example, someone who observes a relatively minor code violation can rightfully and quickly correct the violation.

Essential Elements

1. Statement of organization's commitment to promoting safe training environments and adhering to established professional coaching standards
2. Proscription of discrimination on the basis of gender, disability, place of origin, color, sexual orientation, religion, political belief, or economic status
3. Statement prohibiting all forms of athlete maltreatment
4. List of potential sanctions for code of conduct violations
5. Unique codes of conduct for athletes, administrators, coaches, staff, officials, volunteers, and parents/guardians

Implementation Criteria

1. Organization has unique codes of conduct for each group of sport stakeholders
2. Codes include all essential elements
3. Codes meet or exceed requirements of relevant legislation
4. Policy is publicized, promoted, and distributed to relevant audiences, including parents or guardians of athletes under the age of 18, upon joining and on an annual basis
5. Codes are reviewed annually, or whenever there is a major change in the organization or relevant legislation
6. Guidance for acceptable/unacceptable behavior is appropriate, actionable, and consistent with accepted coaching standards

Records of Implementation

1. An electronic or physical copy of codes of conduct
2. Evidence of code distribution and circulation (e.g., mailing records, group email lists, meeting announcements)
3. Displayed publicly (e.g., bulletin boards, websites, registration materials)
4. Signed statements of understanding from each member of relevant audience
5. Dated records of management/executive body approval, endorsement, and review
6. Dated records describing alleged code of conduct violations and the actions taken to enforce the codes

Policy Templates

1. Code of Conduct for Coaches [hyperlink](#)
2. Code of Conduct for Staff [hyperlink](#)
3. Code of Conduct for Officials [hyperlink](#)
4. Code of Conduct for Volunteers [hyperlink](#)
5. Code of Conduct for Parents/Guardians [hyperlink](#)
6. Code of Conduct for Athletes [hyperlink](#)

<USOC Code of Conduct [hyperlink](#)>

3.0 – Applicant Screening and Criminal Background Checking

What

Organizations that provide athlete training or sports competition services utilize systematic applicant screening and criminal background check processes that disqualify prospective administrators, coaches, staff, officials, and volunteers from contact with athletes if they have histories of athlete maltreatment and/or unacceptable criminal convictions.

Why

Sound, practical, and responsible hiring and criminal background checking practices decrease liability exposure and reduce the chances that an athlete will come in contact with potentially dangerous adults.

Essential Elements

1. Individuals who will have direct contact with athletes must consent to, and pass, a formal screening process
2. Screening process includes successful completion of an application, interviews, references check, and a criminal background check
3. Statement that all applicants must successfully complete a criminal background check before working or having direct contact with athletes
4. General description of background check practices, including:
 - the databases that will be checked
 - the general process
 - how findings are handled
 - the applicant's rights and right to appeal if the background check vendor returns an adverse finding
 - statement of privacy protection and appropriate records keeping practices
 - statement that background checks will be conducted every two years, or more often as required by law

Implementation Criteria

1. Organization has a screening and background check policy
2. Policy includes all essential elements
3. Policy meets or exceeds requirements of relevant legislation
4. Policy is publicized, promoted, and distributed to relevant audiences, including parents or guardians of athletes under the age of 18, upon joining and on an annual basis
5. Policy is reviewed annually, or whenever there is a major change in the organization or relevant legislation

6. Retention of hiring and personnel records with hiring and criminal background check results
7. Policy is uniformly applied to all new hires, new volunteers, and continuing personnel and volunteers

Records of Implementation

1. An electronic or physical copy of screening policy
2. Records of policy distribution and circulation (e.g., mailing records, group email lists, meeting announcements)
3. Displayed publicly (e.g., bulletin boards, websites, registration materials)
4. Signed statements of understanding from each member of relevant audience
5. Dated records of management/executive body approval, endorsement, and review
6. Properly maintained records describing results of applicant screening and criminal background checking, including documentation of actions taken for individuals screened out

Policy Templates

<Applicant Screening and Criminal Background Checking Policy hyperlink>

DRAFT

9.0 – Education and Training

What

Organizations that provide sports training or competition services require all administrators, coach, staff, officials, and volunteers to complete education and training on athlete maltreatment prevention and athlete welfare promotion.

Why

Education is a key component of any maltreatment prevention strategy. An education and training policy provides administrators, coaches, staff members, officials, volunteers, parents, and athletes with information necessary to more effectively monitor their sport, minimize the opportunities for athlete maltreatment, and report concerns. It is also a strong public statement that the organization places a priority on athlete welfare and positive training environments.

Essential Elements

1. Statement of organizational commitment to ongoing education and training in athlete maltreatment prevention
2. Education, training, and certification required for any individual with direct athlete contact; certification required every two years
3. Education and training encouraged for athletes and parents
4. Curriculum meets or exceeds standards set forth in relevant legislation
5. Training:
 - Provides definitions for, and effects of, all forms of athlete maltreatment (emotional, physical, and sexual; bullying, harassment, and hazing)
 - Identifies risk opportunities for maltreatment in sport
 - Identifies policies, practices, and procedures for organizations to recognize, reduce, and report suspected athlete maltreatment
 - Outlines patterns, behaviors, and methods of operation of sexual predators
 - Requires testing with at least 25 questions and require a score of 100% for passing and certification

Implementation Criteria

1. Organization has an education and training policy
2. Policy includes all essential elements
3. Policy meets or exceeds requirements of relevant legislation

4. Policy is publicized, promoted, and distributed to relevant audiences, including parents or guardians of athletes under the age of 18, upon joining and on an annual basis
5. Policy is reviewed annually, or whenever there is a major change in the organization or relevant legislation
6. Training and certification is mandatory for administrators, coaches, staff, and volunteers; re-certification mandatory every two years
7. Training encouraged for parents and athletes

Records of Implementation

1. An electronic or physical copy of policy
2. Evidence of policy distribution and circulation (e.g., mailing records, group email lists, meeting announcements)
3. Displayed publicly (e.g., bulletin boards, websites, registration materials)
4. Signed statements of understanding from each member of relevant audience
5. Dated records of management/executive body approval, endorsement, and review
6. Records of certification status available for all administrators, coaches, staff members, and volunteers, including certification expiration date
7. Education and training records available for public inspection

Policy Templates

<Maltreatment Prevention Education and Training Policy hyperlink>

<USOC Education and Training Policy hyperlink>

10.0 – Maltreatment Reporting and Adjudication Procedure

What

A maltreatment reporting policy and adjudication procedure sets forth procedures to address allegations of maltreatment falling within an organization's athlete protection policy. It states the organization's commitment to providing safe training environments, from reporting potential maltreatment to the appropriate organizational channels and state child protection agencies as applicable, and to following prompt and fair adjudication procedures.

Why

Administrators who implement policies, react if a problem arises, manage the behavior of coaches, and recruit staff, are an important link in the prevention and management of maltreatment. The failure to provide guidance on when and how to report suspected maltreatment is a significant barrier to disclosing maltreatment. Without training in this area, sport stakeholders may feel ill-prepared, powerless, and lost when it comes to responding to and reporting maltreatment, greatly affecting their leadership with regard to this issue.

Likewise, coaches, parents, and athletes must also be able to recognize maltreatment and to know how to respond to it within their organization.

A maltreatment reporting policy clarifies to all participants, staff, responsible parties, and members of the public that the organization understands its duty and responsibility to create a safe and positive environment for athletes. This statement also further reinforces the organization's climate for athlete safety and welfare.

Essential Elements

1. Provides name and contact information of organizational point-of-contact for reporting athlete maltreatment concerns
2. Describes reporting procedures
3. Details review and investigation procedures
4. Sets forth adjudication procedures and adequate procedural safeguards
5. Identifies possible sanctions for violation of athlete protection policy
6. Provides complainant protection and prohibits retaliation
7. Prohibits false reporting

Implementation Criteria

1. Organization has a policy
2. Policy includes all essential elements
3. Policy meets or exceeds requirements of relevant legislation
4. Policy is publicized, promoted, and distributed to relevant audiences, including parents or guardians of athletes under the age of 18, upon joining and on an annual basis

5. Policy is reviewed annually, or whenever there is a major change in the organization or relevant legislation
6. Provides adequate procedural safeguards
7. Complies with organization's bylaws

Records of Implementation

1. An electronic or physical copy of policy
2. Evidence of policy distribution and circulation (e.g., mailing records, group email lists, meeting announcements)
3. Displayed publicly (e.g., bulletin boards, websites, registration materials)
4. Signed statements of understanding from each member of relevant audience
5. Dated records of management/executive body approval, endorsement, and review
6. Retention of maltreatment report allegations and the actions taken to review, investigate, and resolve allegations

Policy Templates

<Maltreatment Reporting and Adjudication Procedure hyperlink>

<USOC Maltreatment Reporting and Adjudication Procedure hyperlink>

- b. seeking opportunities to improve athletic skills
 - c. giving maximum effort during practice and competition
4. Athletes will abstain from the illegal use of alcohol, tobacco, and drugs during their capacity as an athlete, and not advocate or support such use among fellow athletes
 5. Athletes will not engage in, condone, or encourage others to engage in, any illegal actions
 6. Athletes will not subject their fellow athletes to any form of maltreatment – emotional, physical, sexual, bullying, harassment, and hazing – as those terms are defined in ORGANIZATION’S Athlete Protection Policy
 7. Athletes shall not participate in or encourage any behavior or activity that potentially threatens their, or another athlete’s amateur status or eligibility for high school or collegiate sports.
 8. Violations of this code are subject to sanctions and may include, but are not limited to, reprimand, censure, suspension, and expulsion.
 9. This code shall be agreed to with a signature and maintained on record with ORGANIZATION. For athletes under age 18, a parent/guardian will co-sign the code.

Section 2.7 Reporting and Determining Code of Conduct Violations

Any potential code of conduct violations will be reported to TITLE (NAME AND CONTACT INFORMATION OF OFFICIAL). Upon receiving a report, the TITLE has the sole discretion to gather the information and evidence needed to determine whether a violation has occurred and what sanctions are appropriate. If the TITLE has a conflict of interest, investigatory duties will be delegated to another individual within the organization. Sanctions will depend on a variety of factors, including the age of the athlete(s) involved and the seriousness of violation.

If the alleged violation involve an athlete under the age of 18, the TITLE will communicate and work directly with the athlete’s parent/guardian to reach resolution.

Reported code of conduct violations involving allegations of athlete maltreatment will be handled in accordance with the Maltreatment Reporting Policy and Adjudication Procedure.

The results of the TITLE’s decisions will be conveyed to the original complainant(s) and any athlete(s) and/or their parents/guardians involved. Records of all code of conduct violations, reports, and outcomes will be kept confidential. If, however, a violation of the applicable code of conduct also constitutes a violation of the Athlete Protection Policy, outcomes will be published as set forth in the Maltreatment Reporting Policy and Adjudication Policy.

3.0 - Applicant Screening and Criminal Background Checking

Coaches, administrators, staff members, volunteers, and officials, 18 years of age or older, who work or volunteer with ORGANIZATION must consent to, and pass, a formal applicant screening process as a condition of their membership, affiliation, or employment.

Our screening process requires successful completion of an application, interviews, references check, and a criminal background check. These criminal background check reports are kept strictly confidential between our vendor and background checks administrator.

Section 3.1 Applications

Each applicant will complete an application form consisting of personal identifying information including full legal name, address, social security number, employment information, previous sports experience, driver license number or other state issued identification, date of birth, contact information for at least two references, criminal convictions history, and a criminal background release form for signature.

Section 3.2 Interviewing

A coach or administrator will interview applicants whose experience and credentials are considered a fit for any available position.

Section 3.3 References

References of applicants who satisfactorily pass the interviews will be contacted and asked specific questions regarding the applicant's professional experiences, demeanor, and appropriateness for involvement with athletes.

Section 3.4 Background Checks

Section 3.4.1 Databases to be checked

As part of ORGANIZATION'S background check, the following databases and information will be checked:

- Social security verification
- Address trace
- Searches of county criminal records for each county where the individual lives or has lived during the past seven years – going back the length of time that records are available for each county searched
- Two independent National Criminal History Database searches
- All available state sex offender registries
- International background checks for countries where the individual has lived, worked, or studied for three or more consecutive months during the past seven years
- Federal Terrorist Database
- Motor vehicles record check

Section 3.4.2 Process

Every individual required to submit to background screening must complete, sign and date the Consent and Waiver Release Form. Electronic signatures ARE/ARE NOT accepted on the ONLINE REGISTRATION SYSTEM. The Background Screen Consent and Waiver Release form will be submitted and the applicant cleared before the applicant may participate in ORGANIZATION sanctioned events and/or activities.

Upon receipt of the above described documents, the ORGANIZATION will request that the ORGANIZATION'S approved vendor perform the background screen. All information received as a result of a background check will be strictly confidential.

OPTION 1: Appeal to Organization

Section 3.4.3 Potentially Disqualifying Factors

Section 3.4.3.1 Criminal History

Criminal background check information, which is potentially disqualifying, includes without limitation conviction, conviction entered after trial, conviction after a guilty plea, or conviction after a plea of no contest/*nolo contendere* for the following type of criminal offenses:

Regardless of the amount of time since the offense occurred:

- Any felony (any crime punishable by confinement of greater than one year);
- Any lesser crime involving force or threat of force against a person;
- Any lesser crime involving a weapon or firearm;
- Any lesser crime in which sexual relations is an element, including "victimless" crimes of a sexual nature (including pornography);
- Any lesser crime involving controlled substances (not paraphernalia or alcohol);
- Any lesser crime involving cruelty to animals; or
- Any sex offender registrant.

Within the last seven years:

- Any misdemeanor violence offenses
- Any multiple misdemeanor drug and alcohol offenses
- Any other crimes against children (not listed above)

For purposes of being authorized to drive any motor vehicle on organization business, including team travel, a record or disclosure that contains the following information should be considered disqualifying:

- A suspended or revoked driver's license;
- More than two moving violations, citations, and/or citations in the past two years; or
- A major conviction within the past two years, including but not necessarily limited to

DUI/DWI, possession of an open container, any drug-related motor vehicle incident, leaving the scene of an accident, assault (in any form) by use of a motor vehicle, reckless driving (willful or wanton disregard of safety of persons or property in any form)

Section 3.4.3.2 Pending Court Cases

No decision will be made on an individual's suitability for clearance if they have a pending court case for any of the potentially disqualifying offenses until the outcome of the court case. If, however, during the case's pendency, the organization undertakes an independent investigation and conducts a hearing pursuant to the applicable Code of Conduct or Maltreatment Reporting and Adjudication Procedure and determines, based on a preponderance of the evidence that the applicant has violated the applicable Code of Conduct and/or Athlete Protection Policy, such determination may be used as the basis to disqualify the individual.

Section 3.4.3.3 Falsification

Intentionally misrepresenting a criminal conviction history is grounds for membership revocation or restriction, regardless of the offenses discovered.

Section 3.4.3.4 Banned Lists

A Member who has been placed on another sport organization's banned list as permanently ineligible SHALL/MAY be used as an additional basis for disqualification and exclusion for membership.

Section 3.4.3.5 Findings

To protect the applicant's right to privacy, notice of clearance or disqualification for all applicants will be provided to only those individuals in the organization who need such information to conduct his/her job duties. Here, notice will be provided to:

1. The designated contact of the LOCAL/REGIONAL ORGANIZATION that submitted the application; and
2. NATIONAL ORGANIZATION OFFICE

The ORGANIZATION'S background check report will return a "red light" or "green light" score. A green light score means that the individual is suitable for membership with respect to the background check. A red light finding means that the individual "does not meet the criteria" and is not suitable for organization membership with regard to the background check. If a question arises concerning a background check, the individual will be contacted directly by the background check vendor and given the opportunity to correct potential discrepancies in the employee's records or to provide additional information prior to the background check vendor issuing a "red light." In such situations the ORGANIZATION may also be contacted.

Section 3.4.3.6 Appeal to Organization

If an individual receives a red light finding and wishes to contest the ORGANIZATION'S decision not to accept his or her application based on red light finding, the individual may request a

38

DRAFT – USOC SafeSport Handbook – Confidential/For Internal Distribution Only

The draft material contained herein does not constitute the policy of the U.S. Olympic Committee, which is under internal review. Before adopting any policy or maltreatment prevention strategy, organizations should consult with competent counsel.

WS_000351

hearing before ORGANIZATION'S Review Panel. The Review Panel will consist of: TITLE OF EACH OFFICIAL.

The Review Panel will communicate its finding to the individual and TITLES. If the individual disagrees with the finding of the Review Panel, he or she may file a demand for APPEAL/ARBITRATION with APPEAL BODY. A decision rendered by the APPEAL BODY shall be final and binding on all parties.

Section 3.4.4.7 Discretion

If any discretion is exercised in the application of this policy, it shall be exercised in a uniform manner, so that substantially similar convictions and circumstances result in substantially similar treatment of applicants.

--END OPTION 1--

OPTION TWO: Appeal to Background Check Vendor

Section 3.4.4 Potentially Disqualifying Factors

Section 3.4.4.1 Criminal History

Disqualifying criminal background check information includes, but is not limited to, conviction, conviction entered after trial, conviction after a guilty plea, or conviction after a plea of no contest/*nolo contendere* for the following type of criminal offenses:

Regardless of the amount of time since the offense occurred:

- Any felony (any crime punishable by confinement of greater than one year);
- Any lesser crime involving force or threat of force against a person;
- Any lesser crime involving a weapon or firearm;
- Any lesser crime in which sexual relations is an element, including "victimless" crimes of a sexual nature (including pornography);
- Any lesser crime involving controlled substances (not paraphernalia or alcohol);
- Any lesser crime involving cruelty to animals; or
- Any sex offender registrant.

Within the last seven years:

- Any misdemeanor violence offenses
- Any multiple misdemeanor drug and alcohol offenses
- Any other crimes against children (not listed above)

For purposes of being authorized to drive any motor vehicle on organization business, including team travel, a record or disclosure that contains the following information should be considered disqualifying:

39

DRAFT – USOC SafeSport Handbook – Confidential/For Internal Distribution Only

The draft material contained herein does not constitute the policy of the U.S. Olympic Committee, which is under internal review. Before adopting any policy or maltreatment prevention strategy, organizations should consult with competent counsel.

WS_000352

- A suspended or revoked driver's license;
- More than two moving violations, citations, and/or citations in the past two years; or
- A major conviction within the past two years, including but not necessarily limited to DUI/DWI, possession of an open container, any drug-related motor vehicle incident, leaving the scene of an accident, assault (in any form) by use of a motor vehicle, reckless driving (willful or wanton disregard of safety of persons or property in any form)

Section 3.4.4.2 Pending Court Cases

No decision will be made on an individual's suitability for clearance if they have a pending court case for any of the potentially disqualifying offenses until the outcome of the court case. If, however, during the case's pendency, the organization undertakes an independent investigation and conducts a hearing pursuant to the applicable Code of Conduct or Maltreatment Reporting and Adjudication Procedure and determines, based on a preponderance of the evidence that the applicant has violated the applicable Code of Conduct and/or Athlete Protection Policy, such determination may be used as the basis to disqualify the individual.

Section 3.4.4.3 Falsification

Intentionally misrepresenting a criminal conviction history is grounds for membership revocation or restriction, regardless of the offenses discovered.

Section 3.4.4.4 Banned Lists

A Member who has been placed on another sport organization's banned list as permanently ineligible SHALL/MAY be used as an additional basis for disqualification and exclusion for membership.

Section 3.4.4.5 Findings

To protect the applicant's right to privacy, notice of clearance or disqualification for all applicants will be provided to only those individuals in the organization who need such information to conduct his/her job duties. Here, notice will be provided to:

1. [The designated contact of the LOCAL/REGIONAL ORGANIZATION that submitted the application.
2. NATIONAL ORGANIZATION OFFICE]

The ORGANIZATION'S background check report will return a "red light" or "green light" score. A green light score means that the individual is suitable for membership with respect to the Background Check. A red light score is an automatic disqualifier for membership and can only be appealed on the grounds that the negative information in your report is incorrect.

A notice of automatic disqualification will be sent by certified mail by the ORGANIZATION'S approved Background Screen Vendor to the hiring or using club/entity.

The complete profile will be sent by certified mail by the ORGANIZATION'S approved Background Screen Vendor directly to an automatically disqualified individual, along with a copy of the "Summary of Your Rights under the Fair Credit Reporting Act" (FCRA), and a notification that the individual is prohibited from participating in ORGANIZATION events and/or activities.

Section 3.4.4.6 Appeal to Background Check Vendor

Any disqualified individual has the right to dispute the findings of the background screening directly with the ORGANIZATION'S approved Background Screen Vendor. A disqualified individual may not appeal the automatic disqualification or the results of the findings of the background screen vendor to the LOCAL/REGIONAL/NATIONAL ORGANIZATION. Each LOCAL/REGIONAL ORGANIZATION is required by the policy to accept the findings of the approved background screen vendor.

Individuals automatically disqualified are excluded from participation in any ORGANIZATION sanctioned events and/or activities.

--END OPTION 2--

Section 3.4.7 Frequency of Background Checks

Criminal background checks will be conducted every TWO years, or as otherwise required by law, for coaches, administrators, staff members, volunteers, and officials, 18 years of age or older, who work for or volunteer with ORGANIZATION. Newly discovered potentially disqualifying criminal background information will be handled as described above.

Section 3.4.8 Review of Disqualifiers

ORGANIZATION will review its disqualifiers on an annual basis.

Section 3.4.9 Records

Records are kept in a locked and secure location onsite for a period indicated by applicable law or until the applicant is no longer affiliated with ORGANIZATION, whichever date is later.

Any sanctions imposed by the Panel against a Member must be proportionate and reasonable, relative to the conduct that is proven to have occurred. The decision regarding the appropriate sanction shall be up to the panel deciding each complaint. In imposing a sanction, the Review Panel shall consider:

- a. the legitimate interest of ORGANIZATION in providing a safe environment for athletes and other sport participants;
- b. the seriousness of the offense or act;
- c. the time which has elapsed since the occurrence of the offense or act;
- d. the age of the person at the time of the occurrence of the offense or act;
- e. any information produced by the individual, or produced on behalf of the individual, in regard to the individual's rehabilitation and good conduct;
- f. the effect on the ORGANIZATION'S reputation; and
- g. any other information, which in the determination of the Review Panel, bears on the appropriate sanction.

Sanctions may range from a warning and a reprimand to suspension from sport involvement with the ORGANIZATION for a period of time. Suspensions from sport involvement with ORGANIZATION may be temporary or permanent. The most severe sanction possible to impose will be permanent suspension from sport involvement and expulsion from the ORGANIZATION.

For the purposes of the Policy, a suspension from sport involvement shall mean that for the duration of the period of suspension the Member may not participate in any capacity or in any role in the business, events, or activities of the relevant organization or its affiliated members.

If the Member is permanently suspended and expelled from the ORGANIZATION, he/she will be placed on ORGANIZATION'S publicly-displayed banned list after the appeal process, if any, is complete.

Section 10.3.6 Confidentiality

The conduct of the hearing shall be private. If the Review Panel determines that the Member has violated the Athlete Protection Policy, it shall publish a brief summary of its decision. However, if the Member appeals pursuant to Section 10.2.8, the panel's decision will not be disclosed until the American Arbitration Association renders its decision.

If the Review Panel determines that the Member did not violate the Athlete Protection Policy, the panel will publish a summary only on the Member's request.

Section 10.3.7 Appeal

If the Member disagrees with the finding of the panel and wishes to appeal, he or she may file a demand for arbitration with the American Arbitration Association ("AAA") within 14 days of the ORGANIZATION'S finding. A decision rendered by the AAA shall be final and binding on all

EXHIBIT 6

Message

From: Booth, Rachel [rachel.booth@usta.com]
Sent: 2/26/2015 8:23:41 PM
To: Malia Arrington [Malia.Arrington@usoc.org]
Subject: RE: United States Center for Safe Sport -- Next Steps
Attachments: 022315_Revised draft policies and procedures collective comments.docx

Hi Malia,

Attached are our comments/edits embedded in the policy- they were made by a number of people so I apologize if they seem a little disjointed. We have our draft definition of membership but I am waiting for 1 more person to sign off who unfortunately is overseas. If I don't hear from him tomorrow then I will send anyway. You asked about the week of March 16 for the insurance meeting, I am scheduled to be in depositions March 19-20, so the earlier days in the week would be better.

From: Malia Arrington [mailto:Malia.Arrington@usoc.org]
Sent: Monday, February 23, 2015 8:59 AM
To: Booth, Rachel; Casey Jorgensen (cjorgensen@usahockey.org); Patricia St. Peter (PStPeter@zelle.com); Renee Jamison (rjamison@usagym.org); Sonja Keating; Margie Mara; Michael Massik; Lisa Levine; Alex Natt; Susan Woessner
Cc: Rick Adams; Darci Miller
Subject: FW: United States Center for Safe Sport -- Next Steps

All --

Good morning. A few quick things to start the week.

1. **Prohibited conduct.** If you have not yet had a chance to provide us with a quick paragraph concerning who is currently subject to your prohibited conduct policies, that will greatly assist as we revise the definition of "members."
2. **Draft policies and procedures.** A gentle reminder that if you have any feedback on the draft policies and procedures, please send it our way by tomorrow, Tue. Feb. 24.
3. **Dates.** If you have not already done so, please take a few minutes to respond to the request for dates below.

Thank you,

Malia

From: Malia Arrington [mailto:Malia.Arrington@usoc.org]
Sent: Monday, February 16, 2015 3:11 PM
To: Booth, Rachel (rachel.booth@usta.com); Casey Jorgensen (cjorgensen@usahockey.org); Renee Jamison (rjamison@usagym.org); Sonja Keating; Alex Natt; Patricia St. Peter; Lisa Levine; Susan Woessner; Margie Mara; Michael Massik
Cc: Rick Adams; Darci Miller
Subject: United States Center for Safe Sport -- Next Steps

All --

Happy President's Day! Thank you to everyone participating in our first in-person meeting last week. We are in the process of editing the draft policies based on the feedback we received during the meeting and will incorporate any additional feedback you have when we receive it. I have attached the draft as a Word doc for those of you who would

C/R Lauren Tracy
6/2/23

Exhibit 15

Pam Hardy Stenographer

prefer to redline, otherwise feel free to scan back to me. Below are some additional asks to assist us as we move this project forward.

ACTION ITEMS

A. Draft policies

1. Description of who prohibited conduct under minimum standards policy currently apply to is “due” tomorrow, Tue. Feb. 17. For the sake of clarity, what we’re looking for is a description of who is subject to your prohibited conduct policy, or its equivalent. If your membership structure is easy to identify as well, that would be helpful.
2. Any additional feedback you on the draft policies and procedures is due Tue. Feb. 24
3. We will recirculate an updated draft to the group on or about Tue. March 3. At this time, we will also circulated proposed revisions to the minimum standards.

B. NGB Transition Toolkit

We will circulate a draft of the NGB Transition Toolkit on Tue. March 10. We currently envision it containing the following contents:

1. Template documents
2. Bylaw amendment language
3. Information on membership terms
4. FAQs
5. Member communications guide.

Please let me know if there are other pieces of information you would like to see in the toolkit.

C. Dates

I’d like to get your feedback on dates for the following:

1. **Insurance conversations.** Please advise when you are not available to discuss insurance during the week of March 2. For those of you who are located in Colorado Springs, we will meet at headquarters; for those of you not located in Colorado Springs, we will utilize a meeting platform TBD.
2. **Bi-monthly calls.** Given the current timeline, we’d like to schedule calls every two weeks for March and at least April. Please let me know your preference for these calls in order of preference (and understanding that not everyone will be able to make every call):
 - a. Mondays after 4 PM MST
 - b. Tuesdays after 4 PM MST
 - c. Thursdays after 4 PM MST
3. **In-person meeting.** We’d like to pin down dates for our second in-person meeting at this time. Please let me know your availability:
 - a. The week of April 27
 - b. The week of May 2

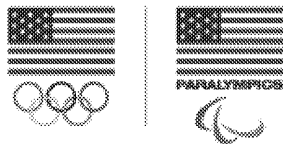
NEXT WEEK

You’ll see a couple of things from us next week:

1. For everyone’s convenience, and because it’s easy to lose stuff, we are going to move all communications, documents and presentations from 2014-2015 to Sharepoint. You’ll receive access info once everything is loaded.
2. Once we have dates from everyone on the above, I will circulate a weekly calendar for March – June 2015.

3. For those of you who will be on the NGBC call, we'll begin the conversation around the nominating and governance committee and the new board.

Thanks much, chat soon. – Malia



Malia Arrington | Dir., Ethics and Safe Sport
United States Olympic Committee
1 Olympic Plaza
Colorado Springs, Colorado 80909
+1 719-866-5093

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution*
Subject to Nondisclosure Agreement

INTRODUCTION

Overview

The Center for Safe Sport is an independent, non-profit organization dedicated to creating a safe, healthy and supportive environment for all select participants in member sport organizations. Its primary mission is to create an empowered sports community armed with the resources to fight abuse.

The Center pursues its mission in two key ways. First, through education, resources and training, the Center helps members of the sports community recognize and reduce misconduct in sport. Second, through the enforcement of these safe-Safe sport-Sport policies and disciplinary procedures, the Center regulates the membership of U.S. Olympic and Pan American national governing bodies and Paralympic sport organizations by responding/responds to allegations of sexual misconduct.

Comment [A1]: They do not regulate NGB's

These safe-Safe sport-Sport policies and disciplinary procedures are designed to allow the Center to assess whether a member poses a risk of harm to others in the sports community and to take appropriate action to address that risk of harm. These policies and procedures are broken into the following sections:

Comment [A2]: Are they assessing risk or responding to allegations - 2 different roles

Definitions

Identifies and defines key terms used throughout the safe-Safe sport-Sport policies and disciplinary procedures.

Jurisdiction

Identifies those members and the types of alleged sexual misconduct that are subject to the Center's jurisdiction to investigate and resolve. The Center has exclusive administrative authority (referred to as mandatory jurisdiction) to address misconduct involving sexualized behaviors.

Code of conduct

Establishes a policy prohibiting misconduct and identifies and describes several forms of sexualized and non-sexualized misconduct.

Reporting misconduct

Identifies who must/who can report sexual misconduct violations, how to report violations, the Center's confidentiality policy and the reporting options for victims.

Disciplinary process

Outlines the process used by the Center to investigate and resolve alleged sexual misconduct. The Center's investigation is neutral, prompt and non-adversarial. The Center's investigators are advocates for the facts and do not advocate on behalf of any party or for a particular result.

Arbitration

Sets forth the Center's arbitration rules if an eligible ~~member member participant~~ pursues an arbitration hearing concerning the Center's preliminary findings and/or recommended sanctions.

Application

These ~~safe-Safe sport-Sport~~ policies and disciplinary procedures apply to the conduct of prospective, current and ~~former members~~ participants, as defined by your sport's NGB or PSO. If you are unsure whether the ~~safe-Safe sport-Sport~~ policies and disciplinary procedures apply to you or to someone that you believe engaged in sexual misconduct, please see the attached list of sports organizations at [URL] whose members are subject to these policies and procedures.

Comment [A3]: Don't understand how they have jurisdiction over former participants unless sexual misconduct occurred while they were participant

For those involved in the Center's disciplinary process, whether a complainant or respondent, the Center's provides a neutral case manager to help you understand the process and your options. In addition, while the Center is not a victim's assistance agency, the Center's victim assistance coordinator will help victims identify resources in their community.

Independence

The Center is an entity that is independent from the U.S. Olympic Committee, the national governing bodies, the Paralympic sport organizations and/or their regional, state or local affiliated clubs, and the Athletes Advisory Council. This independence allows the Center to provide a prompt, fair and neutral resolution, and to avoid any actual or apparent conflict of interest with those members who the Center may be called upon to investigate.

Limits

The Center does not and cannot regulate the conduct of those individuals who are not prospective, current and ~~former members~~ participants of a national governing body or Paralympic sport organizations. However, if you are a victim of sexual misconduct and the Center is without jurisdiction to address the matter, the Center will attempt to connect you with the right resources.

Comment [A4]: Same comment as above

The Center's jurisdiction extends only to the conduct of individual members as defined by the applicable NGB or PSO. The Center does not regulate, investigate or audit national governing bodies or Paralympic sport organizations or their regional, state or local affiliated clubs. Specifically, the Center does not regulate, investigate or audit the supervision, management, employment or ~~safe-Safe sport-Sport~~ practices and policies of these organizations. Misconduct not within the Center's jurisdiction may be subject to a separate disciplinary process established by your sport organization.

Comment [A5]: Not true - they have minimum standards that are imposed so they do regulate and audit.

Comment [A6]: Even if within jurisdiction NGB could impose more severe disciplinary actions

Section 1: DEFINITIONS

1.1. Athlete

An amateur athlete who meets the eligibility standards established by the NGB or PSO for the sport in which the athlete competes. [Note: from TSA]

1.2. Complainant

A victim, or parent or guardian of a minor victim, who is pursuing a ~~safe~~ Safe sport ~~Sport~~ violation through the Center's disciplinary process.

The Center, if it pursues or investigates a reported ~~safe~~ Safe sport ~~Sport~~ violation without the cooperation of the victim as set forth in Section 4.6C.

1.3. Child, minor or young person

A person under 18 years of age.

1.4. In-program activity or conduct ~~or activity~~

In-program activity or conduct refers to ~~events~~ conduct or activity occurring during an organized or sponsored sport activity or event, such as games, tournaments, practice and travel.

1.5. Local sport club

A regional, state or local club or organization that is affiliated with an NGB or PSO and requires and/or allows its members to be members of an NGB or PSO.

1.6. Member

A member of any U.S. Olympic or Pan-American NGB or PSO. A member includes any athlete, participant, coach, trainer, staff, volunteer, board member, director, trustee, official or any other person associated or affiliated, directly or indirectly, with any NGB or PSO. For the purposes of these ~~safe sport~~ policies and disciplinary procedures, members include prospective, current and past members as set forth at Section 2.1. To be determined by each NGB

1.7. National governing body or NGB

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

An amateur sports organization accepted into membership of the A Pan American or U.S. Olympic national governing body recognized by the United States Olympic Committee as provided for in Section 8 of the Bylaws of the United States Olympic Committee and as further recognized pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. §§ 220501-220529.

1.8. Out-of-program conduct or activity

Out-of-program conduct or activity refers to activities occurring outside of an organized sport activity or conductevent, such as games, tournaments, practice and travel. Out-of-program conduct includes activity away from sports training, sporting events and programs and at places other than designated sports facilities.

1.9. Paralympic sport organization or PSO

An amateur sports organization accepted into membership of the A Paralympic sport organization recognized by the United States Olympic Committee as provided for in Section 8 of the Bylaws of the United States Olympic Committee and as further recognized pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. §§ 220501-220529.

1.10. Participant Delete and cover under member definition

Any coach, trainer, manager, administrator or official that participates in amateur sports programs offered or sanctioned by an NGB or PSO. [Note: not defined, but list is from TSA]

1.11. Reporter

The individual reporting a safe-Safe sport-Sport violation, which may or may not be the victim identified in the report.

1.12. Respondent or responding memberparticipant

The member accused of the reported safe-Safe sport-Sport violation, e.g., an athlete, coach or volunteer member.

1.13. Safe sport-Sport policy

Any policy developed and implemented to ensure promote a safe and positive environment for athletes and other sports participants free of misconduct and inappropriate behavior.

Comment [A7]: How can this be "any" policy – then what is this document???? You can't sanction someone based on "any" policy?

1.14. Safe sport-Sport violation

Any alleged or actual violation of:

- the code of conduct set forth in Section 3;
- any ~~safe~~ ~~Safe sport~~ ~~Sport~~ policy adopted by an NGB, PSO or local sport club that addresses physical misconduct, emotional misconduct, non-sexualized bullying, non-sexualized hazing and non-sexualized harassment.

Comment [A8]: Same comment as above – I thought that we all needed to have consistent policies – how can this have anything to do with our policies when they have the jurisdiction over the members?

1.15. **Sexual contact**

Any contact with a person's breasts, genitals, buttocks, groin, mouth or any other body part that is touched in a ~~or with the intent of it being in a~~ sexual manner, however slight, by a person or an object to the body of another.

Comment [A9]: Can we include "intent" here or does it not make sense?

1.16. **Victim(s)**

The individual(s) identified as being ~~the subject to of~~ a reported ~~safe~~ ~~Safe sport~~ ~~Sport~~ violation, ~~regardless of whether or not this individual is also the complainant.~~

Section 2: JURISDICTION

2.1. Persons within the Center's jurisdiction

The Center has disciplinary authority over a person connected to an NGB or PSO as follows:

A. Prospective and current members

Every prospective and current member, including for alleged sexual misconduct that occurred before or during membership. Prospective members are those individuals who have applied for or demonstrated an interest in membership in an NGB or PSO.

B. Past members

An individual who was a ~~member~~ member at the time of the alleged sexual misconduct, even if no longer a current ~~member~~ member.

The Center retains jurisdiction over members who are accused of sexual misconduct, even if those members choose to withdraw or terminate their membership after learning of the sexual misconduct allegations.

If you are uncertain whether you or another individual is a ~~member participant~~ member of an NGB or PSO subject to the Center's jurisdiction, click here to see a list of covered organizations: [link to list of relevant organizations].

2.2. Matters within the Center's jurisdiction

A. Mandatory jurisdiction

The Center has jurisdiction over and shall resolve the following:

(1) Prohibited conduct involving sexualized behaviors

Allegations that a member violated the Center's **code of conduct** provisions designed to address sexualized behaviors, including boundary violations (Section 3.3B(1)(b)), grooming behaviors (Section 3.3B(1)(c)), child sexual abuse (Section 3.3B(2)), sexual misconduct (Sections 3.3B(3)), sexualized bullying (Section 3.3E(2)), and sexualized hazing (Section 3.3F(2)).

In resolving reports involving sexualized behaviors, the definitions set forth in the Center's code of conduct apply.

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

(2) **Related prohibited conduct not involving sexualized behaviors**

Comment [A10]: NO – thought they only had jurisdiction over sexual misconduct accusations – would add to discretionary jurisdiction below in B

Allegations that a member engaged in other prohibited conduct that is reasonably related to and/or accompanies an alleged violation involving sexualized behaviors. This includes:

- (i) Alleged violations involving physical misconduct, emotional misconduct, non-sexualized bullying, ~~non-sexualized hazing~~ or non-sexualized hazing where conduct is reasonably related to and/or accompanies an alleged violation involving sexualized behaviors. For example, an allegation of sexual misconduct against a member may also include allegations that the member was emotionally or physically abusive and the Center would have ~~mandatory~~ administrative jurisdiction over the related emotional or physical misconduct.

In resolving reports of related prohibited conduct the Center will apply the definitions set forth in the following sections of the code of conduct: Section 3.3C (physical misconduct), Section 3.3D (emotional misconduct), Section 3.3E(1) (non-sexualized bullying), Section 3.3F(1) (non-sexualized hazing), and Section 3.3G(1) (non-sexualized harassment) unless the NGB or PSO has adopted its own definitions for these forms of misconduct.

- (ii) Alleged violations involving bystanding (Section 3.1B(3)), failure to report a violation (Section 4.1B(1)), bad-faith reporting (Section 4.8), retaliatory discrimination or harassment (Section 4.9), or abuse of process (Section 4.10). For example, the Center has jurisdiction over matters where a member allegedly retaliated in response to a witness reporting sexual misconduct to the Center.

In resolving reports of bystanding, retaliatory discrimination or harassment, bad-faith reporting or abuse of process, the definitions in the code of conduct shall apply.

(3) **Other matters**

Allegations that a ~~member~~ member participant engaged in inappropriate sexualized behaviors even if the conduct is not explicitly addressed in the Center's code of conduct or other relevant policy.

B. Discretionary jurisdiction

On the written request of an NGB or PSO the Center may, in its discretion, accept jurisdiction over the following:

(1) Prohibited conduct not involving sexualized behaviors

- (a) Allegations that a member engaged in prohibited conduct not involving sexualized behaviors, including physical misconduct, emotional misconduct, non-sexualized bullying, non-sexualized hazing and/or non-sexualized harassment.
- (b) In resolving such allegations, the Center will apply the definitions set forth in the following sections of the code of conduct: Section 3.3C (physical misconduct), Section 3.3D (emotional misconduct), Section 3.3E(1) (~~non-sexualized bullying~~), Section 3.3F(1) (~~non-sexualized hazing~~), and Section 3.3G(1) (~~non-sexualized harassment~~), unless an NGB or PSO has adopted its own safe sport policy definitions for these forms of misconduct.
- (c) The Center has the ~~sole~~ discretion to determine whether it will handle such reports and may do so in limited circumstances. ~~In deciding whether to handle a report, the Center may consider: (a) the existence of an actual or perceived conflict of interest between the NGB/PSO and the complainant and/or respondent; (b) the frequency or duration of the alleged conduct; (c) the age of the individuals involved; (d) whether any of the individuals were previously involved in similar or other, safe sport violations; (e) the severity of the alleged conduct; (f) whether there are related, pending criminal charges; and (g) any other considerations relevant under the particular circumstances.~~

Comment [A11]: Aren't (or shouldn't) the policies be consistent across all of the organizations?

Limits

- (1) The Center does not have disciplinary authority over, ~~and its processes do not supplant, nor will it interfere with~~ civil or criminal proceedings.
- (2) The Center does not have authority over, and its processes do not supplant, the employment practices of an NGB, PSO or other club or organization.
- (3) The Center's jurisdiction only extends to the conduct of individual members as defined by the NGB or PSO. The Center does not regulate, investigate or audit NGBs, PSOs or local sports clubs. Specifically, the Center does not regulate, investigate or audit the supervision, management, employment or

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

~~safe-Safe sport-Sport~~ practices and policies of these organizations.
Misconduct that is not within the Center's jurisdiction may be subject to a
separate disciplinary process established by ~~your~~ the applicable sport
organization.

2.3. **Geographic jJurisdiction**

The Center's jurisdiction and disciplinary authority applies to conduct that takes place during
in-program activities. It also applies to out-of-program activities when a member's conduct
may present a danger or threat to the health and safety of him/herself or others.

Comment [A12]: Just in-program jurisdiction?

2.4. **Time limits**

There is no time limit on reporting ~~safe-Safe sport-Sport~~ violations. However, the longer
someone waits to report a matter, the harder it becomes for the Center to obtain information
and witness statements and to make determinations regarding alleged violations. Anyone
who is aware of misconduct is encouraged to report it as quickly as possible to the eCenter
and/or relevant law enforcement authorities.

Section 3: **CODE OF CONDUCT**

Comment [A13]: This Section isn't a code of conduct – it details the conduct that is prohibited.

3.1. **Overview**

The Center is committed to promoting and maintaining a safe and positive sports environment. To be effective, it is critical that all members understand and be able to identify the various forms of misconduct and that these standards be applied uniformly and consistently.

A. Applicability

(1) Members

The ~~prohibited conduct described herein~~ ~~code of conduct~~ applies to members participants as follows:

- (a) All participants are subject to the provisions that address sexualized behaviors including: boundary violations (Section 3.3B(1)(b)), grooming behaviors (Section 3.3B(1)(c)), child sexual abuse (Section 3.3B(2)), sexual misconduct (Sections 3.3B(3)), sexualized bullying (Section 3.3E(2)), sexualized hazing (Section 3.3F(2)), and any other sexualized behaviors.
- (b) All participants are subject to provisions addressing physical misconduct (Section 3.3C), emotional misconduct (Section 3.3D), non-sexualized bullying (Section 3.3E(1)), non-sexualized hazing (Section 3.3F(1)) and non-sexualized harassment (Section 3.3G(1)), ~~unless a participant's relevant governing body has not adopted definitions to address these forms of misconduct.~~

Comment [A14]: Then, according to the USOC Bylaws, the entity is no longer an NGB.

Note: The Center's mandatory disciplinary authority does not include the provisions identified at Section 3.1(A)(1)(b).

(2) Online, email or other electronic media conduct

~~This code policy may be applied to behavior conducted online, via email or other electronic medium distributed electronically using email, text messages, or otherwise. Members should also be aware that online postings such as This includes blogs, web postings, chats and social networking sites, are in the public sphere and are not private. These postings may subject a member to allegations of sexual misconduct violations.~~

While the Center does not regularly search for this information, it may take action if and when information is brought to the attention of the Center and violates this policy or substantiates a reporter's complaint. However, most online speech by members participants not involving the use of [NGB/PSO/regional/local club networks or technology] will be protected as free expression and not subject to the safe Safe sport Sport policies and disciplinary procedures, with two exceptions:

Comment [A15]: Would not include this

(a) A true threat, defined as "a threat a reasonable person would interpret as a serious expression of intent to inflict bodily harm upon specific individuals"; and

(b) Speech posted online about NGB or PSOs or its community members that causes a significant disruption.

Comment [A16]: Same comment

B. All misconduct prohibited

Comment [A17]: Again, beyond the scope

All forms of misconduct are intolerable and in direct conflict with the ideals of sport.

Athletes and sport participants should be provided a safe and positive environment for their physical, emotional and social development. Misconduct is behavior that detracts from that safe and positive environment or presents the potential for harm, regardless of whether it actually causes harm or was intended to cause harm.

Misconduct includes a wide continuum of inappropriate behaviors ranging from minor violations, such as poor safe Safe Sport practices, to serious violations involving sexual violence. While this code utilizes the umbrella term "misconduct," the Center appreciates that in many cases the victim's experience involves violence.

(1) Criminal acts

Acts described as criminal by federal or applicable state law and any associated pending criminal charges are violations of this code.

(2) Age, gender and competitive level irrelevant

With the exception of child sexual abuse, this code applies without regard to the age of the member. Similarly, the prohibited conduct set forth in this code applies equally to all members, regardless of gender and/or competitive level.

(3) Bystanding

Bystanding is complicity with or failure to appropriately address known or obvious violations of the Safe-Sport code policy, disciplinary process or law. Bystanding is prohibited under this policy code.

C. Relation to other law and policies

This policy code does not supersede, replace or otherwise abrogate:

- the Ted Stevens Olympic and Amateur Sports Act
- NGB or PSO employment policies or
- applicable federal or state law.

3.2. Key terms and definitions

In addition to the definitions and key terms set forth in Section 1, the following definitions apply to this policy code of conduct.

A. Consent

(1) Definition

Consent is words or actions that clearly indicate a person's voluntary agreement to engage in conduct, including sexual activity. Consent must always be freely informed and actively given. Consent must be ongoing and it may be withdrawn at any time. Consent for one act does not imply consent for any subsequent act. Silence or lack of resistance does not imply consent.

~~Under this policy, a person who says "No" does not consent. However, a "Yes" may not always be sufficient to give effective consent.~~

Consent may never be obtained through the use of coercion to compel another individual to initiate or continue an activity. Coercion encompasses a wide range of behaviors, including pressuring, threatening, intimidating, blackmailing or the use of guilt.

Consent cannot be obtained from an individual who is incapable of giving consent because the person:

- is a young person
- has a mental, intellectual or physical disability
- is asleep, "blacked out," unconscious or physically helpless
- is incapacitated ~~and~~ or unable to make informed rational judgments and decisions, including through the consumption of alcohol or drugs.

Comment [A18]: Provide more clarity – is this a minor? Someone under 10?

Comment [RB19]: Modify for purposes of para athletes

(2) **Consent in the context of sexual activity**

Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous and/or current relationships or consensual activity does not imply consent to future sexual acts.

Consent cannot be procured by use of physical force, threats, intimidation or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. If someone indicates to you that he or she does not want sex, that he or she wants to stop or that he or she does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

To give effective consent, one must be of legal age.

If you have engaged in sexual activity with someone you know to be—or should know to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), you are in violation of this policy. Incapacitation is a state where one cannot make a rational, reasonable decision because he or she lacks the ability to understand the “who, what, when, where, why or how” of the sexual interaction.

This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint or from the taking of a so-called “date-rape” drug.

Use of alcohol or other drugs will never function to excuse behavior that violates this policy.

Comment [A20]: Is this a policy or a pamphlet? Policy should speak to specific definitions. This is a superfluous.

B. Imbalance of power

Comment [RB21]: USOC to re-write this section- adding peer to peer, discrepancies in age, degrees of influences, etc..

An imbalance of power exists where one person in a relationship holds a superior position of power over the other. Consent is not possible in the context of a relationship involving an imbalance in power. For example, a young person can never consent to conduct with an adult as an adult always holds a position of power over a young person. Factors relevant to determining whether there is an imbalance of power include but are not limited to the:

- nature and extent of a person’s supervisory, evaluative or other authority over another
- actual relationship between the parties and their respective roles
- age of the parties involved and their intellectual capabilities

3.3. **Prohibited conduct**

A. Forms of misconduct

Misconduct comes in many forms. Misconduct may be intentional, unintended or accidental. Misconduct may involve sexualized or non-sexualized behaviors. Misconduct may occur even if the conduct does not involve any threatened or actual harm.

To highlight the scope of conduct prohibited under this policy-code, the code policy is organized around nine interrelated forms of misconduct:

- Boundary violations
- Grooming behaviors
- Child sexual abuse
- Sexual misconduct
- Physical misconduct
- Emotional misconduct
- Bullying (including sexualized bullying)
- Hazing (including sexualized hazing)
- Harassment

The same behavior or pattern of behavior may involve more than one form of misconduct. In addition, although described in this policy-code as separate forms of misconduct, many of these forms of misconduct are interrelated. For example, child sexual abuse will typically include boundary violations, grooming behaviors, physical misconduct and emotional misconduct.

B. Sexualized behaviors

Sexualized behaviors, as set forth below, include without limitation boundary violations, grooming behaviors, child sexual abuse and sexual misconduct (romantic relationships involving an imbalance of power, sexual exploitation, sexual harassment, sexual assault and violence). It also includes sexualized bullying and sexualized hazing.

Comment [A22]: Again, beyond scope of sexual misconduct

Comment [A23]: Have these definitions been vetted through the Expert Panel? If not, the experts engaged and experienced in these areas should be writing or at least reviewing these definitions so that we are using appropriate and legal terminology.

(1) **Prohibited boundary violations and grooming behaviors**

(a) **Overview**

Preventing both child sexual abuse and sexual misconduct is greatly improved when an informed community is able to identify and prohibit common behaviors that precede these forms of misconduct. These common “pre-offending” behaviors fall into two categories: boundary violations and grooming behaviors.

Alone, many of these behaviors or similar behaviors may occur without being part of a predatory or grooming process. However, to safeguard against sexual predators and to better protect all athletes and other sports participants, these behaviors are prohibited. Prohibited behavior is set forth below in the policies on boundary violations and grooming behaviors.

(b) **Boundary violations**

(i) **Definition**

Boundary violations occur when a person fails to respect appropriate age, social, emotional and professional boundaries with others.

~~Boundary violations often occur when an adult does not respect appropriate or well-established boundaries with a child or young person. However, boundary violations can also occur between two adults or between two children or young people.~~

Boundary violations can sometimes lead to or create an environment conducive to more serious abuse. It may also lead to suspicions about an individual’s motivation, even where no harm or sexual contact is intended. For example, a coach giving one child too much attention, regularly transporting children in his or her car, or encouraging physical contact with children without obvious justification, all constitute boundary violations. At a minimum, boundary violations set a poor example and need to be addressed.

(ii) **Exceptions**

Boundary violations do not include professionally appropriate physical contact that occurs as a direct result of sports training or competition or for the purpose of athlete safety (i.e., spotting,

positioning an athlete's body to improve or develop an athletic skill, releasing muscle cramps).

Boundary violations also do not include public expressions of celebration or consolation:

- greeting gestures such as high-fives, fist bumps and brief hugs
- congratulatory gestures such as celebratory hugs, "jump-arounds" and pats on the back for any form of athletic or personal accomplishment
- embracing a crying or distressed athlete (e.g., an athlete who has been injured or has just lost a competition)
- putting an arm around an athlete while verbally engaging them in an effort to calm them down ("side hugs")
- lifting a fallen athlete off the playing surface and "dusting them off" to encourage them to continue competition.

(iii) **Examples**

Boundary violations include but are not limited to:

Touching offenses:

- an adult tickling or wrestling (non-sport) with a child or young person
- close physical contact unrelated to sport, such as sitting on a lap or initiating hugging that is unwanted, excessive or of an intimate nature
- giving backrubs, rubdowns or massages (non-therapeutic).

Non-touching offenses:

- using humor with sexual content or innuendo
- making sexually provocative or degrading comments
- use of profane, sexual or other inappropriate language
- engaging in discussions of sexual activities or desires, such as a coach discussing his or her sex life with an athlete or any adult engaging in similar discussions with a child or young person
- an adult furnishing alcohol to a minor drinking alcohol with a child or young person (or any person under the legal drinking age – U.S. law)

Comment [A24]: Use of profanity should not be an offense unless excessive and depending on context

- an adult having a secretive relationship with a child or young person without the knowledge of that person's parents or peers
- frequent texting or messaging via social media that is unrelated to participation in sport
- an adult intentionally and frequently calling or texting a child or young person without the consent or knowledge of the child's or young person's parents.

(c) **Grooming behaviors**

(i) **Definition**

Grooming is a systematic process in which a sexual predator uses trust to sexually abuse a vulnerable person (often a child or young person). Sexual predators engaging in a grooming process can be identified through an observable pattern of behaviors, known as grooming behaviors.

The grooming process has six steps:

Step 1: Targeting the victim. An offender will identify a person and determine his or her vulnerabilities.

Step 2: Gaining trust. Through watching and gathering information about the targeted person, an offender will become acquainted with his or her needs. The offender may also try to gain the trust of those closest to the victim such as a parent or close relative.

Step 3: Filling a need for the victim. Offenders will often give lavish gifts, extra attention and affection to forge a bond with the victim.

Step 4: Isolating the target. By developing a special relationship with the targeted person and those around the targeted person, an offender creates situations in which he or she is alone with the targeted person.

Step 5: Sexualizing the relationship. An offender will desensitize a victim by talking to, taking photos of and even creating situations in which both the offender and victim are touching or naked. The offender then uses a victim's curiosity and feelings of stimulation to engage in sexual activity.

Step 6: Maintaining control. To ensure the victim's continued participation and silence, offenders may use secrecy and blame as

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

well as other tactics; victims sometimes continue the relationship out of fear or shame at the thought of having to tell someone about the abuse.

~~Sexual predators engaging in a grooming process can be identified through an observable pattern of behaviors, known as grooming behaviors.~~

Grooming behaviors are any pattern of behavior that includes repeated boundary violations, social or emotional manipulation, use of secrecy and/or attempts to isolate another person. Grooming also includes a pattern of behavior involving a combination of excessive attention, affection and gifts.

Grooming is identified by the pattern of behavior, not the intent of the person engaging in the conduct or whether the behavior ultimately leads to any sexual contact.

(ii) Exceptions

None.

(iii) Examples

Grooming behaviors, if part of a pattern of conduct, include, but are not limited to:

- buying a person expensive gifts or multiple gifts or giving the person money; may take the form of compensating practice time or re-gifting donated sporting equipment or apparel
- an adult spending excessive time with a young person and/or his or her parents out-of-program
- sharing private or personal information and then asking the person to keep it secret
- seeking private or personal information under the promise that the information will be kept secret
- engaging in conduct to separate a person from his or her peers
- singling out a person for different treatment, such as giving an athlete far more personal attention than his or her teammates or offering special privileges
- seeking or creating opportunities to be alone with another, including during both in-program and out-of-program trips.

(d) **Related local ~~safe-Safe sport-Sport~~ policies**

Certain ~~safe-Safe sport-Sport~~ policies used to mitigate the risk of boundary violations and prohibited grooming behaviors are more appropriately developed and implemented at the local level and by sport. To determine whether you are subject to additional policies, consult with your sport organization.¹

(2) **Child sexual abuse**

Comment [A25]: We should be specific regarding age – does this apply to all minors?

(a) **Definition**

Child sexual abuse includes any sexual contact or activity with a child or young person where consent is not or cannot be given. Child sexual abuse includes sexual contact that is accomplished by coercion, deception, manipulation, force or the threat of force.

A child or young person cannot consent to sexual activity with an adult. All sexual interactions between an adult and a child or young person are strictly prohibited even if the child or young person understands or agrees to the behavior.

Child sexual abuse is not limited to an adult's abuse of a child, but may also include sexual contact between children or young persons. Peer-to-peer sexual activity may be abusive, depending on the existence of an aggressor, the age difference between the children or young persons involved and/or whether there is an imbalance of power and/or intellectual capabilities.

Child sexual abuse includes any act or conduct described as child sexual abuse under federal or applicable state law.

(b) **Exceptions**

None.

¹ For local sport clubs that are considering adopting ~~safe-Safe sport-Sport~~ policies to address local team travel, overnight or team travel, social media and electronic communications, gifting, physical contact or photography, sample policies on each of these topics can be found in the Center's Safe Sport Handbook. [hold for link]

(c) **Examples**

Sexually abusive acts involving children or young people include but are not limited to:

Touching behaviors:

- sexual penetration
- sexual touching

Non-touching behaviors:

- sexually suggestive electronic or written communications
- making sexually explicit comments
- exposing a child or young person to pornographic images
- exposing oneself to a child or young person or voyeurism of a child or young person.

Note: Child sexual abuse often involves some form of sexual misconduct, boundary violations, grooming behaviors, physical misconduct and/or emotional misconduct.

(3) **Sexual misconduct**

To ensure a safe environment and protect all members, this ~~policy~~ broadly defines sexual misconduct to encompass a wide continuum of sexualized behaviors.

As set forth below, sexual misconduct includes those behaviors involving unwelcome, unwanted or non-consensual conduct of a sexual nature, including, but not limited to, romantic relationships involving an imbalance of power, sexual exploitation, sexual harassment, sexual assault and sexual violence.

Sexual misconduct also includes any act or conduct described as sexual misconduct under federal or applicable state law.

(a) **Forms**

(i) **Romantic relationships involving an imbalance of power**

(A) **Definition**

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

Any sexual contact or any other intimate or romantic conduct is prohibited where there is an imbalance of power. These relationships are prohibited regardless of whether the relationship leads to sexual contact.

(B) **Coach-athlete romantic sexual relationships**

An imbalance of power is always assumed between a coach and an athlete. Once the unique coach-athlete relationship is established, the authority and trust on the part of the coach over the athlete shall be assumed, regardless of age.

As a result, the age of the coach and athlete is not relevant, both during coaching and during that period following coaching if an imbalance of power could jeopardize effective decision-making. Coach-athlete romantic relationships are ~~should be~~ prohibited regardless of whether the relationship leads to sexual contact.

Comment [A26]: Not always the case in Tennis
many pros dating former pros that are their coach
sometimes same age.

(C) **Exceptions**

An imbalance of power is not presumed in the coach-athlete relationship if there is a preexisting relationship between two spouses or life partners.

(D) **Examples**

Examples of prohibited relationships include but are not limited to:

Touching behaviors:

- any sexual contact between a coach and athlete
- a coach and athlete engaging in excessive hand holding or hugging or any other close physical contact unrelated to sport, such as sitting on a lap, ~~of an intimate nature~~
- a coach and athlete “cuddling” or maintaining prolonged physical contact during any aspect of in-program or out-of-program activities, training, travel or overnight stay.

Non-touching behaviors:

- a coach and athlete engaging in discussions with one another concerning sexual activities or desires or any aspect of their sex lives

(ii) **Sexual exploitation**

(A) **Definition**

Sexual exploitation includes taking advantage of another through a position of trust or an imbalance of power for one's own advantage or benefit or to benefit or advantage anyone other than the one being exploited. Exploitation may occur regardless of whether the behavior ultimately leads to any sexual contact.

Sexual exploitation includes any sexual contact that occurs in a relationship where there is an imbalance of power, including between an athlete or other member participant and an individual who has direct or indirect authority or the authority to evaluate an athlete or member. Because these relationships involve an imbalance of power, judgment is likely to be impaired and consent to sexual contact cannot be given.

(B) **Exceptions**

None.

(C) **Examples**

Examples of sexual exploitation include, but are not limited to:

- voyeurism or spying on others who are in intimate or sexual situations, involving two adults
- exposing one's genitals or inducing another to expose his or her genitals in non-consensual circumstances
- taking pictures or video or audio recordings of another in a sexual act or in any other private activity, without the consent of all involved in the activity
- disseminating pictures or video or audio recordings of another in a sexual act or in any other private activity
- exchange of reward in sport (e.g., team placement, scores, feedback) for sexual favors

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

- threatening someone into unwanted sexual contact

(iii) **Sexual harassment**

(A) **Definition**

Sexual or gender-based verbal, written, online and/or physical conduct that: (1) is unwelcome, offensive or has the purpose or effect of creating a hostile environment; and (2) is sufficiently severe or intense to be harassing to a reasonable person in the context.

Sexual harassment includes any incident or conduct that attacks an athlete's or participant's willingness or ability to participate in sport.

(B) **Exceptions**

None.

(C) **Examples**

Examples of sexual harassment include, but are not limited to:

- threatening retaliation against another who rejects sexual advances
- requesting or sending a nude or partial-dress photo to another
- displaying sexually suggestive images or exposing others to pornographic material
- deliberately exposing another to nudity (except in situations where locker rooms and changing areas are shared and in conformance with each NGB's or PSO's locker room policy)
- making comments or inquiries about another's sexual experiences
- sending unwanted or unwelcome sexually explicit or suggestive electronic or written messages or photos (e.g., "sexting")
- making sexual gestures toward or about another athlete
- making sexual epithets, jokes or comments
- unwelcome leering or whistling.

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

(iv) **Sexual assault and violence**

(A) Definition

Any unwanted, unwelcome or non-consensual sexual contact or attempted sexual contact.

(B) Exceptions

None.

(C) Examples

Examples of sexual assault and sexual violence include, but are not limited to:

- unwanted kissing or touching
- unwanted rough or violent sexual contact
- any sexual contact that exceeds the consent given
- sexual contact with someone who is very drunk, drugged or unconscious
- sexual contact with a person who holds the inferior position in a relationship involving an imbalance of power
- rape or attempted rape

(4) **Other sexualized behaviors**

Prohibited sexualized behaviors include but are not limited to sexualized bullying as set forth at Section 3.3E(2) and sexualized hazing as set forth at Section 3.3F(2).

The prohibited sexualized behaviors in this ~~policy~~ may also involve boundary violations and/or grooming behaviors as set forth at Section 3.3B(1), physical misconduct as set forth at Section 3.3C and/or emotional misconduct set forth at Section 3.3D.

C. Physical misconduct

Comment [A27]: Again, beyond scope

(1) **Definition**

Physical misconduct involves contact or non-contact conduct that causes or reasonably threatens to cause physical harm to another person.

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

Physical misconduct includes any act or conduct described as physical abuse or misconduct under federal or applicable state law (e.g., child abuse, relationship violence, child neglect, assault).

(2) **Exceptions**

Physical misconduct does not include professionally-accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline or improving athlete performance.

For example, hitting, punching and kicking are well-regulated forms of contact in combat sports but have no place in swimming.

(3) **Examples**

Physical misconduct includes, but is not limited to:

Contact violations

- punching, beating, biting, striking, choking or slapping another
- intentionally hitting another with objects, such as sporting equipment
- providing alcohol to an underage person (under the legal drinking age—U.S. law)
- providing illegal drugs or non-prescribed medications to another
- encouraging or permitting an athlete to return to play prematurely following a serious injury (e.g., a concussion) and without the clearance of a medical professional
- prescribing dieting or other weight-control methods (e.g., weigh-ins, caliper tests) without regard for the nutritional well-being and health of the athlete.

Non-contact violations

- isolating a person in a confined space, such as locking an athlete in a small space
- forcing an athlete to assume a painful stance or position for no athletic purpose (e.g., requiring an athlete to kneel on a harmful surface)
- withholding, recommending against, or denying adequate hydration, nutrition, medical attention or sleep.

Note: Physical abuse often involves some form of bullying, harassment and/or hazing.

D. Emotional misconduct

Comment [A28]: Same – beyond scope

(1) Definition

Emotional misconduct is a pattern of non-contact behavior such as insults, threats, humiliation, intimidation, isolation and other behaviors that have the potential to cause emotional or psychological harm to another person. Emotional misconduct is identified by the conduct and circumstances in which it occurred, not whether harm is intended or whether harm actually results from the misconduct.

Emotional misconduct is not a single inappropriate act or event (like a verbal outburst). However, depending on the severity of the outburst and the circumstances, the conduct should be addressed by the appropriate person—local sport club as a poor practice.

Emotional misconduct includes any act or conduct (e.g., psychological abuse, emotional abuse, mental abuse, child abuse) described as emotional abuse or misconduct under federal or applicable state law.

(2) Exceptions

Emotional misconduct does not include professionally-accepted and age-appropriate coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline or improving athlete performance.

(3) Examples

Examples of emotional misconduct include, but are not limited to:

Verbal acts

- a pattern of verbal assault that repeatedly attacks someone personally (e.g., calling a person worthless, fat or disgusting)
- repeatedly and excessively yelling at a particular athlete or other participant in a manner that serves no productive training or motivational purpose.

Physical acts

- a pattern of physically aggressive behaviors, such as throwing sport equipment, water bottles or chairs at or in the presence of, athletes or other participants
- punching walls, windows or other objects.

Acts that deny attention and/or support

- a pattern of ignoring or isolating a person for extended periods of time, including routinely or arbitrarily excluding athletes from practice

Note: Emotional abuse often involves some form of bullying, harassment and/or hazing.

E. Bullying

Comment [A29]: Beyond scope

(1) Definition

Bullying is intentionally aggressive behavior, repeated over time that involves an imbalance of power. Bullying requires three key elements: an intent to harm, a power imbalance and repeated acts of threats or aggressive behavior. Bullying also includes any act or conduct described as bullying under federal or applicable state law.

Bullying may be sexual, physical, verbal or relational or carried out via technology.

(2) Sexualized bullying

Bullying also includes sexualized bullying. Sexualized bullying is bullying based on a person's gender, sexual orientation or sexual activity.

(3) Distinguishing Between Rude, mean and conflict —distinguished

Rude

Rudeness is inadvertently saying or doing something that hurts someone else.

Mean

Meanness is purposefully saying or doing something to hurt someone once (or maybe twice).

Conflict

Unlike bullying, a conflict is a struggle between two or more people who perceive they have incompatible goals or desires. Most conflicts arise in the moment because people of the same relative amount of power see the same

situation from two different points of view. People engaged in a conflict want the issue to be resolved.

(4) Exceptions

Bullying does not include group or team behaviors that: (1) are meant to establish normative team behaviors; or (2) promote team cohesion.

For example, bullying does not include verbal admonitions to encourage team members to train harder and to push through a difficult training regimen.

(5) Examples

Examples of bullying include, but are not limited to:

Repeated acts or threats of physical aggression

- hitting, pushing, punching, beating, biting, striking, kicking, choking, spitting or slapping
- throwing objects such as sporting equipment at another person.

Repeated acts or threats of verbal aggression

- teasing, ridiculing, taunting, name-calling or intimidating
- threatening to cause someone harm.

Repeated acts or threats of social aggression, including cyberbullying

- using rumors or false statements about someone to diminish their reputation
- using electronic communications, social media or other technology to harass, frighten, intimidate or humiliate someone
- embarrassing someone in public
- socially excluding someone and asking others to do the same.

Repeated acts or threats of sexual aggression

- teasing, ridiculing or taunting based on sexual orientation

Note: Bullying often involves some form of physical misconduct, emotional misconduct and/or harassment.

F. **Hazing**

Comment [A30]: Beyond Scope

(1) **Definition**

Hazing includes any conduct that subjects another person, whether physically, mentally, emotionally or psychologically, to anything that may endanger, abuse, humiliate degrade or intimidate the person as a condition of joining or being socially accepted by a group, team or organization. A person cannot consent to being the subject of hazing, regardless of the person's perceived willingness to cooperate or participate.

Hazing also involves any act or conduct described as hazing under federal or applicable state law.

(2) **Sexualized hazing**

Hazing misconduct also includes sexualized hazing, which is any hazing behavior that includes any sexual acts or behavior that is sexual in nature.

(3) **Exceptions**

Hazing does not include group or team activities that are meant to establish normative team behaviors or promote team cohesion.

(4) **Examples**

Examples of hazing include, but are not limited to:

Physical acts

- requiring or forcing the consumption of alcohol or illegal drugs, including binge drinking and drinking games
- tying, taping or otherwise physically restraining another person
- beating, paddling or other forms of physical assault
- excessive training requirements demanded of only particular individuals on a team
- sleep deprivation, otherwise unnecessary schedule disruptions or withholding of water and/or food
- restrictions on personal hygiene

Non-physical acts

- personal servitude

- requiring social actions (e.g., grossly inappropriate or provocative clothing) or public displays (e.g., public nudity) that are illegal or meant to draw ridicule
- yelling, swearing and insulting new team members
- socially isolating new teammates or requiring new teammates to perform duties not assigned to other team members

Sexualized acts

- simulations of sexual acts of any nature

Note: Hazing often involves some form of sexual misconduct, physical misconduct, emotional misconduct and/or bullying.

G. Harassment

Comment [A31]: Beyond Scope

(1) Definition

Harassment encompasses a wide range of behaviors involving a repeated pattern of conduct that: (a) is intended to cause fear, humiliation or annoyance; (b) offends or degrades; or (c) creates a hostile environment affecting a member's willingness or ability to participate in sport.

Conduct involving harassment will be evaluated considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context and duration of the behavior. Although harassment often involves repeated incidents, a single serious incident may constitute harassment.

Harassment also includes any act or conduct described as harassment or stalking under federal or applicable state law.

(2) Discriminatory harassment

A repeated pattern of conduct that reflects discriminatory bias in an attempt to establish dominance, superiority or power over an individual athlete or group based on age, sex, race, color, ethnicity, culture, national origin, religion, sexual orientation, gender expression or mental or physical disability.

(3) Stalking

A course of behavior directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Stalking generally involves a course of conduct which

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

includes two or more acts, involving persistent and frequent unwanted in-person contact, surveillance or unwanted telephone and other electronic contact.

(4) Sexual harassment

Harassment includes sexual harassment, which is more specifically defined as a form of sexual misconduct in Section 3.3B(3)(a)(iii).

(5) Exceptions

None.

(6) Examples

Examples of harassment include, but are not limited to:

Physical harassment

- repeated grabbing, slapping, pinching, pushing or any other unwanted physical contact.

Non-physical harassment

- making negative or disparaging comments about a person's sexual orientation, gender expression, disability, religion, skin color or ethnic traits
- displaying offensive materials, gestures or symbols
- withholding or reducing an athlete's playing time or limiting the role of other participation in sport, based on that person's sexual orientation.

Stalking behaviors

- following a person
- appearing at a person's home, class, work or practice
- frequent phone calls, emails, text messages, etc.
- continuing to contact a person after receiving requests to stop
- leaving written messages, objects or unwanted gifts
- vandalizing a person's property
- threatening, intimidating or intrusive behavior.

Note: Harassment often involves some form of sexual misconduct, emotional misconduct and bullying.

3.4. **Additional Policy requirements**

A. Knowledge and enforcement of this codePolicy

Members are provided a copy of the Center's safe sport policies and disciplinary procedures through the Center's website and hard copies may be downloaded and printed from the website.

Members are responsible for knowing the Center's Safe Sport Policies and Procedures ~~code of conduct~~. Ignorance of the Policies of the ~~code~~ or its terms is not a defense.

The Center has the discretion to update and/or revise the Policy ~~code~~ at any time. Once those changes are posted online at xxxx.org, they are in effect. Members are encouraged to check ~~online the Center's website~~ for the updated versions of all policies and procedures. The Center oversees the evolution and improvement of the ~~code~~ and has final say over all interpretations of the ~~code~~ Policy.

The code Policy applies to a member's conduct at all times, regardless of when and where the conduct occurs, including out-of-program conduct.

B. Sanctions

A member who violates this code Policy may be subject to the Center's disciplinary authority as outlined herein and any related sanctions.

Section 4: REPORTING

4.1. **Mandatory reporting and notice of ~~safe-Safe sport-Sport~~ violations**

A. Matters subject to reporting

Members are not responsible for determining whether a potential ~~safe-Safe sport-Sport~~ violation falls within the Center's jurisdiction and whether it should be reported to the Center. ~~Members~~ Members should not investigate suspicions or allegations of ~~safe-Safe sport-Sport~~ violations or attempt to evaluate the credibility or validity of allegations as a condition of reporting.

The Center requires membersparticipants, NGBs, and PSOs and ~~local sport clubs~~ to report any form of sexual misconduct that is known or suspected (i.e., the member or organization has any reason to believe that sexual misconduct occurred).

These mandatory reporting requirements ensure that all sexual misconduct is reported to the Center directly or that the Center is given notice of all sexual misconduct reported to an NGB, or PSO by a Member or which involves a Member, ~~or local sport organization~~. This enables the Center to determine if it has jurisdiction over reported sexual misconduct and to take appropriate action. If the Center does not have jurisdiction, it will advise the relevant NGBs, PSOs and/or local authorities. ~~local sport clubs~~.

B. Members are mandatory reporters

- (1) Any member participant over the age of 18, other than a victim, who has actual knowledge, reason to believe or suspects that a ~~safe-Safe sport-Sport~~ violation has occurred or is occurring, is required to report. Members who are required to report must do so promptly after learning of the alleged violation.
- (2) A member who is over the age of 18 and fails to report a ~~safe-Safe sport-Sport~~ violation is may be subject to investigation and sanctions. The obligation to report may be satisfied by reporting through any of the options set forth in Section 4.3.

C. Victims are not mandatory reporters

While the Center strongly encourages victims to report all ~~safe-Safe sport-Sport~~ violations, it recognizes that victims, particularly of sexual misconduct or sexual abuse, may not be ready or able to do so. It also recognizes that the Center's inability to offer complete confidentiality, as discussed below, may discourage some victims from reporting.

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

Accordingly, victims of ~~safe-Safe sport-Sport~~ violations, even those victims that are members participants over the age of 18, are not required to report a safe sport violation.

If a victim later decides to report a ~~safe-Safe sport-Sport~~ violation, the victim may do so at any time regardless of how much time has passed since the incident. However, while there is no time limit on reporting ~~safe-Safe sport-Sport~~ violations, the longer someone waits to report a matter, the harder it becomes for the Center to obtain information and witness statements and to make determinations regarding alleged violations.

D. NGBs and PSOs must give notice to the Center of all ~~safe sport~~ violations

- (1) NGBs and PSOs shall adopt and publish procedures for reporting ~~safe sport~~ sexual misconduct violations by a member.
- (2) NGBs ~~and~~, PSOs ~~and local sport clubs~~ that become aware of or receive a report of a ~~safe sport~~ sexual misconduct -violation by a Member or which involves a Member are required to give prompt written notice of the violation to the Center.
- (3) NGBs and PSOs shall report ~~Aall~~ alleged ~~safe-Safe sport-Sport~~ violations other than sexual misconduct by a Member or which involves a Member. ~~, regardless of whether the NGB or PSO reasonably believes a reported violation is within the Center's mandatory jurisdiction, shall forward or give notice of the alleged violation to the Center on a quarterly basis. The Center will determine whether it has jurisdiction over the matter.~~

4.2 ~~Permissive reporters~~

Any person, whether or not a ~~member~~ Member or affiliated with an NGB or a PSO, may report a ~~safe-Safe sport-Sport~~ violation and is encouraged to do so. The Center encourages you to report all misconduct immediately.

4.3.4.2 ~~The reporting process~~

All known or suspected ~~safe-Safe sport-Sport~~ violations can be reported directly to the Center or an NGB or PSO.

Formatted: RJL Main Text, Indent: Before: 1", Hanging: 0.25"

A. Option 1: Reporting directly to the Center

Safe sport ~~Sport~~ violations reported to the Center, should be reported through:

- The Center's telephone hotline: _____;
- The Center's website at _____;
- By email at _____; or
- By regular mail at _____.

B. Option 2: Reporting directly to an NGB, or PSO ~~or other organization~~

Safe sport ~~Sport~~ violations reported to an NGB, or PSO ~~or local sport club~~ should be reported in accordance with that organization's reporting procedures and requirements. Those reporting procedures and requirements shall identify an NGB or PSO representative ~~a member~~ to whom reports should be made and the process by which such ~~member~~ this representative will transmit notice to the Center.

4.4.4.3 Reporting to law enforcement

Reporting misconduct that may also be criminal to the Center does not satisfy any obligation you may have under state or federal law to report known or suspected child physical or sexual abuse. If you believe that any alleged misconduct may also be criminal, the Center strongly encourages you to report the conduct to law enforcement.

Members should not investigate suspicions or allegations of child abuse or neglect or attempt to evaluate the credibility or validity of allegations as a condition for reporting to appropriate law enforcement authority.

For state-by-state mandatory reporting laws, visit [HYPERLINK "http://www.childwelfare.gov"].

4.5.4.4 Reports involving a child or young person

Comment [A32]: Should we specify age or minor?

If reported misconduct involves a child or young person victim or respondent, the Center will promptly notify the child's parents (unless the particular circumstances of the matter dictate otherwise, for example, if the parents are the accused) of the reported safe sport violation.

The Center will promptly and consistently report, as a matter of course, any allegations of child abuse or neglect to law enforcement as required under applicable state law.

The Center will ensure that a child's or young person's parents are kept informed throughout the investigative process. Parents may be present with the child or young person for any interviews, phone calls or communications during the investigation. Although the Center

cannot guarantee confidentiality, the Center will take all reasonable measures to protect the identity of a child or young person.

4.6.4.5. Confidentiality

A. The Center's confidentiality policy

With respect to any reported ~~safe-Safe sport-Sport~~ violation, the Center will make reasonable efforts to honor requests from victims, respondents, reporters, witnesses and others with information that their identity be kept confidential. But the Center cannot guarantee complete confidentiality. For example, during an investigation a respondent will be provided with sufficient information concerning the victim's identity to respond to the reported violation.

In addition, the Center will promptly and consistently report, as a matter of course, any allegations of child abuse or neglect to law enforcement as required under applicable state law. The Center does not investigate suspicions or allegations of child abuse and neglect, or attempt to evaluate the credibility of allegations as a condition of reporting to appropriate law enforcement authorities.

B. Under limited circumstances, the Center may proceed with an investigation without the victim

The Center generally does not pursue or investigate a reported ~~safe-Safe sport-Sport~~ violation without the support and cooperation of the victim. This is true particularly when the victim wants to keep his or her identity confidential.

However, in circumstances presenting a danger to the community, a pattern of predation or multiple victims, the Center may still pursue an investigation without the victim's support or cooperation. To determine whether to proceed the Center will consider:

- emotional or physical safety concerns for the victim or others
- the risk that the respondent will commit additional safe sport violations
- whether there have been other reports of safe sport violations or informal complaints about the respondent
- whether the respondent has a criminal record or history of criminal activity or violence
- whether the respondent has threatened violence against others
- whether the alleged safe sport violation involves numerous perpetrators
- the severity of the alleged conduct
- the frequency and duration of the alleged conduct

- the ages of the individuals involved
- whether the Center has other means to obtain relevant evidence (i.e., security cameras, eye witnesses)
- any other relevant considerations.

C. Other options for victims

Reporting to the Center, NGBs and PSOs is not the only way for victims to report misconduct and find help. All victims are encouraged to seek assistance and support through other options.

- Report to law enforcement: If you are the victim of misconduct that you believe is not only a safe sport violation, but is also criminal, the Center encourages you to report to law enforcement. Reports to law enforcement agencies may not be treated as confidential by that agency.
- Contact licensed counselors and/or seek other victim resources: The Center encourages victims to seek counseling, support or treatment through other resources, such as counseling centers, private counselors or victim hotlines. Many of these resources may be able to guarantee confidentiality. The Center provides a list of potential resources on its website.

D. The Center offers victim's assistance

The Center has a victim's assistance coordinator on staff to identify community support resources for victims.

4.7.4.6 Additional considerations in reporting

A. Time limits

There is no time limit on reporting ~~safe~~ Safe sport ~~Sport~~ violations and the Center can investigate a reported ~~safe~~ Safe sport ~~Sport~~ violation by a ~~member participant~~ regardless of how long ago it occurred. However, the longer someone waits to report a matter, the harder it becomes for the Center to obtain information and witness statements and to make determinations regarding alleged violations. Anyone who is aware of misconduct is encouraged to report it as quickly as possible to the Center and/or relevant law enforcement authorities.

B. Report misconduct even if you are unsure

If you are unsure whether conduct constitutes a safe sport violation, report it. Do not attempt to investigate the alleged violation.

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

C. **Amnesty**

Comment [RB33]: May be given, should be on a case by case basis

The Center does not want fear of punishment for other misconduct (such as underage drinking or similar conduct) to deter a complainant or witness from reporting a safe sport violation, especially a violation involving sexualized behaviors.

(1) **For victims**

Comment [RB34]: This forces the NGB to agree that minor violations will not be disciplined

The Center provides **amnesty** to victims who may be hesitant to report to Center officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result. Records regarding the provision of amnesty, however, will be maintained.

Comment [A35]: Amnesty is a legal privilege for which the Center cannot provide. Law enforcement could still charge for underage drinking, for example.

(2) **For those who offer assistance**

To encourage members to help and provide assistance to others, the Center pursues a policy of **amnesty** for minor violations when members offer help to others in need. At the discretion of the Center's Director of Investigations, amnesty may also be extended on a case-by-case basis to the person receiving offering assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

Comment [A36]: Same comment as above

(3) **For those who report serious violations**

Members who are engaged in minor violations but who choose to bring related serious violations by others to the attention of the Center are offered **amnesty** for their minor violations. Educational options will be explored, but no conduct proceedings or record will result.

Comment [A37]: Same comment as above

Comment [RB38]: No discretion for the NGB?

D. **Anonymous reporting is permitted**

The Center permits anonymous reporting. However, an anonymous report may limit the Center's ability to investigate and respond to a complaint.

E. **The Center can initiate an investigation without a formal report**

Once the Center receives notice of a matter within its mandatory jurisdiction, it has the discretion to initiate the disciplinary process regardless of how the Center was put on notice of the alleged violation.

4.8.4.7 **Bad-faith reporting**

The Center prohibits malicious, frivolous and/or bad faith reports of safe sport violations and it is a ~~safe Safe sport Sport~~ violation for a ~~member Member~~ to make such a report. In some circumstances, malicious, frivolous and/or bad faith reports may be subject to civil or criminal proceedings.

Comment [A39]: So no Safe Sport penalty for such reporting?

~~4.9.4.8.~~ **Retaliatory discrimination or harassment**

Comment [A40]: Beyond scope

The Center prohibits retaliatory discrimination or harassment. Retaliatory discrimination or harassment is any intentional, adverse action taken by a responding individual or allied third-party, absent legitimate or nondiscriminatory purposes, against a participant in the Center's proceedings or other protected activity.

Retaliation or threatening retaliation by a member against a complainant or witness is a ~~safe Safe sport Sport~~ violation. Members, including victims, over the age of 18 are required to report retaliation.

Please note that because the Center's disciplinary authority is limited to members, the power to address retaliatory discrimination or harassment is likewise limited. The Center does not have any control or authority over non-members that may engage in retaliation.

~~4.10.4.9.~~ **Abuse of process**

Comment [A41]: Beyond Scope

The Center prohibits abuse of process and it is a ~~safe Safe sport Sport~~ violation for a member to do so. Abuse of process is the abuse or interference with Center investigations or arbitration hearings, including but not limited to:

- falsification, distortion or misrepresentation of information
- failing to provide, destroying or concealing information during an investigation of an alleged ~~safe Safe sport Sport~~ violation
- attempting to discourage an individual's proper participation in or use of, the Center's processes
- harassment (verbal or physical) and/or intimidation of a member of a standing review or other committee related to the disciplinary process before, during and/or following a disciplinary process
- failure to comply with the sanction(s) imposed by the Center
- influencing or attempting to influence another person to commit an abuse of the Center's disciplinary process.

Section 5: DISCIPLINARY PROCESS

5.1. Overview

This Center's disciplinary process is an administrative process designed to regulate membership and address ~~safe-Safe sport-Sport~~ violations within the Center's mandatory and discretionary ~~(where asserted)~~ jurisdiction, as set forth in Section 2.2. The Center uses this process to assess whether a ~~member-member~~ or a member's behavior poses a risk of harm to others in the sports community and to take appropriate action to address that risk.

Not all situations are of the same severity or complexity. While applying this process consistently in similar situations is a priority for the Center, these procedures are flexible, will not be applied exactly the same in every situation and the Center reserves the right to modify its processes as it deems necessary.

A. Neutral and non-adversarial process

This process is used to determine if a ~~safe-Safe sport-Sport~~ violation occurred, whether the person that committed the ~~safe-Safe sport-Sport~~ violation can continue to be a member participant and, if so, under what conditions. This process is neutral and non-adversarial.

B. An investigative model

The goal of the Center in this process is to collect facts, assess risk and respond in a proportionate manner that will minimize the risk of future violations and protect the NGB and PSO membership as a whole. This process relies on an investigation-based approach to gather facts, make findings and reach a conclusion.

It is important that all parties involved participate and cooperate in the investigation. As part of this process, and before the Center issues its findings and preliminary conclusion, the complainant and respondent will be given opportunities to be heard.

C. Limits

The Center's jurisdiction extends only to the conduct of individual members as defined by the respective NGB or PSO. The Center does not regulate, investigate or audit NGBs, PSOs or local sport clubs. Specifically, the Center does not regulate, investigate or audit the supervision, management, employment or ~~safe-Safe sport~~ Sport practices and policies of these organizations. Misconduct not within the Center's jurisdiction may be subject to a separate disciplinary process established by your organization.

D. Neutral case manager

Any matter that proceeds to informal resolution (Section 5.4E) or investigation (Section 5.4F) will be assigned a neutral case manager. The neutral case manager will serve as the primary contact for the complainant and respondent during the disciplinary process. The case manager can answer questions about the Center's procedures, the status of the disciplinary process as it progresses and other questions that may arise. In addition, Center staff will work with the complainant to identify support resources in their community.

E. Applicable standards

Absent clear evidence that accepted community standards were different at the time of the alleged conduct, the applicable standards set forth in the code of conduct and the disciplinary procedures in this section apply to all matters, even if the conduct occurred before the ~~safe-Safe sport-Sport~~ policies and disciplinary procedures were adopted by the Center.

5.2. Violations of the law and the effect of criminal proceedings

A. Allegations of criminal conduct

Where the alleged misconduct may constitute both a ~~safe-Safe sport-Sport~~ violation and domestic or international criminal activity, the Center shall promptly report to and cooperate with the appropriate agencies. The Center has no authority to and will not undertake a criminal investigation.

B. Stay during criminal proceedings

When an offense occurs over which the Center has jurisdiction, the Center reserves the right to proceed with the disciplinary process notwithstanding any criminal complaint that may arise from the same incident. The Center may exercise its authority of interim suspension upon notification that a member participant is facing criminal investigation and/or complaint. If the disciplinary process is stayed, the Center may also seek interim suspension (or any other interim measure) as set forth at Section 5.4C, pending the outcome of those criminal proceedings.

The Center will cooperate in all criminal investigations and proceedings concerning the conduct of members.

C. **Effect of criminal proceedings**

A criminal conviction may be determinative of whether an individual violated a relevant policy. However, the standards for finding a violation of criminal law are different from the standards for finding a violation of ~~safe-Safe sport-Sport~~ policies. Therefore, a lack of conviction is *not* determinative of whether misconduct, for ~~safe Safe sport-Sport~~ policy purposes, has occurred.

If the respondent is convicted of a crime or subject to disposition of a criminal proceeding (any adjudication of guilt or admission, plea to a lesser offense, a no contest plea, any type of deferred adjudication) related to the same conduct giving rise to a ~~safe-Safe sport-Sport~~ violation, the Center may immediately conclude that a ~~safe-Safe Sport~~ violation occurred and direct an NGB or PSO to impose any appropriate sanctions. However, the Center reserves the right to pursue a full investigation related to all or part of an alleged ~~safe-Safe sport-Sport~~ violation following a disposition.

Comment [A42]: What about the Center's "banned" list? Shouldn't an individual convicted of a crime be listed on the Center's banned list?

5.3. **Concurrent civil proceedings**

The Center will typically not stay disciplinary proceedings pending the outcome of a concurrent civil proceeding, but reserves the right to do so in its sole discretion.

5.4. **Process**

A. **Overview**

All ~~safe-Safe sport-Sport~~ violations reported to the Center will be documented on intake. Depending on the nature of the report, the following steps might occur:

- Interim measures: ~~Recommendation-Implementation~~ of any appropriate or necessary interim measures to ensure the safety of the victim, complainant, the respondent and other members.
- Initial inquiry: An investigator with the Center will begin a preliminary collection of facts.
- Informal resolution process: The Center may attempt to resolve some reports informally through an expedited process. If a respondent declines the opportunity to contest the report, in some circumstances, the Center may accept this decision and impose an appropriate sanction.
- Investigation: In some circumstances, the Center will undertake a full investigation of the reported ~~safe-Safe sport-Sport~~ violation.

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

- Findings and conclusion: Following an investigation, the Center will make factual findings and conclusion as to whether a violation more likely than not occurred.
- Recommended sanctions: If the Center concludes that a violation more likely than not occurred, it will recommend any appropriate sanctions.
- Review: In limited circumstances, a member may seek review of the Center's conclusion and recommended sanction(s).

In all cases, the Center will consider the severity of the reported violation and any steps necessary to minimize the risk of harm to others members in determining whether and how, to proceed with a report of a violation.

B. Notice and intake

Upon receiving notice of a ~~safe-Safe sport-Sport~~ violation involving sexual misconduct, the Center will determine whether it has jurisdiction over the respondent and the alleged violation. If the Center determines it does not have jurisdiction, it will notify the reporting party and relevant NGB/PSO.

Next, the Center will also determine whether the allegations in the report, if true, would constitute a ~~safe-Safe sport-Sport~~ violation and whether the report contains enough information for the Center to investigate the report. The Center documents all reports and gives notice to the relevant NGB/PSO even if the report is not investigated.

If the Center determines the report should be pursued further, it will provide notice of the reported ~~safe-Safe sport-Sport~~ violation to (1) the victim (if the reporter is not the victim), (2) the respondent and (3) the relevant NGB or PSO. The timing of notice is within the Center's discretion. In cases involving children or young persons, the Center will also provide notice to the victim's parents and/or the respondent's parents, unless the parents are accused of the violation.

C. Interim measures

The Center may direct the relevant NGB or PSO to implement necessary interim measures, such as a temporary membership suspension or a no contact order, at any time after the Center receives a report of sexual misconduct. It is important to note, however, that the relevant NGB or PSO may not and likely does not control a ~~member's~~ member's employment with a local club or organization and the Center does not have jurisdiction to direct employment practices within any organization.

Comment [RB43]: Section to be re-written per Gary Johansen

The Center will give notice to a respondent of any interim measure. A respondent may voluntarily accept an interim measure. Alternatively, if the interim measure deprives the respondent of the opportunity to participate in an amateur athletic competition and if requested, the respondent shall have the opportunity for a hearing before an arbitrator of the American Arbitration Association within 24 hours. If a respondent does not request a hearing, the interim measure will be deemed accepted.

The validity of an interim measure does not require a finding that an alleged ~~safe-Safe sport-Sport~~ violation occurred. Instead, the purpose of the hearing is to evaluate whether, based on the information available at the time, the interim measure is necessary and appropriate to protect the victim's (or potentially others') safety and well-being.

Nothing in this Section shall prevent an organization from taking emergency action in response to an alleged ~~safe-Safe sport-Sport~~ sexual misconduct violation, including suspension, if the organization deems it necessary for the safety and protection of the community.

D. Initial inquiry

After receiving a report of a ~~safe-Safe sport-Sport~~ violation and determining the report should be further evaluated, the Center will begin collecting preliminary facts.

This preliminary fact collection will allow the Center, ~~in consultation with its legal counsel,~~ to determine appropriate next steps. In most cases, the Center will follow one of two paths: that the report proceed through an informal resolution process or proceed to a full investigation.

Comment [A44]: The Center does not have in-house counsel???

In some circumstances, the preliminary fact collection may indicate that further investigation is unnecessary. For example, if the basic facts of the report are contradicted by well-established facts, further investigation might be unnecessary (i.e., the respondent was in a different state than the complainant on the day of the alleged misconduct and there is no indication the complainant is mistaken about the date of the incident).

In addition, if a victim is not the reporter and declines to support or participate in this disciplinary process, the Center may elect not to proceed further, as set forth at Section 4.6B.

Any decision to stop further investigation after the initial inquiry will be reviewed and approved by the Center's Director of Investigations. The victim, the respondent and relevant NGB/PSO will be notified of the outcome.

E. Informal resolution process

In some circumstances, often those involving more minor ~~safe-Safe sport-Sport~~ violations, the Center may initiate an informal resolution process rather than initiate a full investigation. This informal resolution process gives the Center flexibility to promptly and equitably resolve ~~safe-Safe sport-Sport~~ violations.

The Center will work informally with the complainant and the respondent to try to reach an acceptable resolution that will maintain or restore a safe and positive environment for all ~~members~~participants. To resolve a report through the informal resolution process, the Center, the complainant and the respondent must agree to the Center's recommended resolution and sanctions (if any).

To be clear, the informal resolution is not settlement. Rather, this process conserves time and resources in less complicated and less serious cases while minimizing the risk of future violations and protecting the NGB and PSO membership as a whole.

In cases involving serious sexual misconduct, ~~including but not limited to sexual assault, child sexual abuse or any form of sexual violence~~, the Center will agree to an informal resolution only if the imposed sanction declares the respondent permanently ineligible for ~~membership or~~ participation in an NGB or PSO. In such cases, the respondent will be placed on the Center's permanently ineligible list.

In all cases, the Center may determine whether further investigation is nonetheless necessary to protect the community and whether the imposed sanction(s) will guarantee a safe and positive environment for all members.

F. Investigation – overview

If the Center decides to conduct a full investigation, it will determine the timing and scope of the investigation based upon the particular circumstances of the alleged ~~safe~~ Safe sport-Sport violation.

Investigations conducted by the Center will be overseen by and conducted at the direction of legal counsel for the Center, who may modify the disciplinary process for the purpose of protecting the individuals involved or the integrity of the process.

(1) The Center's primary goal is to collect facts

The Center's investigation is designed to be neutral, prompt and non-adversarial. The Center's investigators are advocates for the facts and do not advocate on behalf of any party or for a particular result.

During the investigation, it is the Center's responsibility to engage in fact gathering and to collect as much information about the reported ~~safe-Safe sport~~ Sport violation as possible.

Neither the respondent nor the complainant is required to prove that a ~~safe-Safe sport~~ Sport policy was or was not violated.

(2) The investigation is an opportunity to be heard

The Center's investigation process is the opportunity for both the complainant and the respondent to be heard. Both the complainant and the respondent are permitted to provide evidence, including written statements, lists of potential witnesses and other physical or documentary evidence, to the investigator for consideration.

It is important for the complainant and the respondent to cooperate and participate in this investigation process to ensure all relevant facts and evidence are presented to the Center for evaluation and determination of whether a ~~safe~~ Safe sport-Sport violation occurred.

If a respondent declines to cooperate or participate in an investigation, the Center will make findings and conclusions based on the available evidence.

(3) The role of the investigator

The Center's legal counsel will designate and direct an investigator to address an alleged ~~safe-Safe sport-Sport sexual misconduct~~ violation. The investigator will take the following steps, if not already completed:

- (a) ~~Initiate~~ Recommend any necessary interim measures
- (b) Determine the identity and contact information of the party bringing the complaint, whether that person is the initiator of the complaint, or the alleged victim and whether or not the Center has jurisdiction.~~or a Center proxy or representative~~
- (c) Conduct an initial inquiry to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident, any potential patterns and the nature of the complaint
 - (i) If the victim is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

sufficient independent evidence could support the complaint without the participation of the victim

- (ii) Notify the victim of whether the Center intends to pursue the complaint regardless of his or her involvement and inform the victim of his or her rights in the process and option to become involved if he or she so choose
- (iii) A preliminary inquiry usually takes [____ to ____] days to complete
- (d) If indicated by the preliminary inquiry and at the direction of the Center's legal counsel, conduct a comprehensive investigation to determine if there is reasonable cause to believe that the responding member violated a ~~safe-Safe sport-Sport~~ policy and to determine what specific policy violations should serve as the basis for the complaint;
 - (i) If there is insufficient evidence through the investigation to support reasonable cause, the allegations will be closed with no further action,
 - (ii) A comprehensive investigation usually takes between [____ and ____] weeks
- (e) Meet with the party bringing the complaint to finalize the complainant's statements, which will be drawn up by the investigator or designee as a result of this meeting
- (f) Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe and order of interviews for all witnesses and the responding member (who may be given notice of the interview before or at the time of the interview)
- (g) Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy
- (h) Obtain all documentary evidence and information that is available
- (i) Obtain all physical evidence that is available
- (j) Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

G. Preliminary findings and recommended sanctions

(1) Preponderance of the evidence standard

At the close of the investigation, the Center will decide whether it is more likely than not that a ~~safe-Safe sport-Sport~~ violation occurred. In making this decision, the Center may rely on information obtained by law enforcement agencies, court records and the results of the Center's investigation.

(2) Investigator's report and factual findings

In most cases, at the conclusion of the investigation, the investigator will prepare a written report which discusses and analyzes all of the relevant facts and makes factual findings.

Before the report is finalized, the complainant and the respondent will each be given the opportunity to respond to the investigator's findings. Following the receipt of any comments or additional evidence from the complainant and respondent, the investigator will finalize the report.

(3) The Center's preliminary conclusion and recommended sanctions

The Center's Director of Investigations will review the investigator's report and: (a) approve the report; or, (b) if necessary, ask the investigator to modify the report or conduct additional investigation and supplement and revise the report accordingly.

Upon approval of the report, the Director of Investigations will adopt the investigator's factual findings and make a preliminary conclusion whether it is more likely than not that a ~~safe-Safe sport-Sport~~ policy was violated.

If the Director of Investigations concludes that a violation more likely than not occurred, he or she will recommend an appropriate sanction. All recommended sanctions will be reviewed and approved by the Center's legal counsel.

(4) Scope of recommended sanctions

All recommended sanctions will be reasonable and proportionate to the ~~safe-Safe sport-Sport~~ violation and surrounding circumstances, consistent with sanctions issued for similar ~~safe-Safe sport-Sport~~ policy violations and designed to protect all members participants from future misconduct.

In determining an appropriate sanction, the Center may consider, among other things, the seriousness of the violation, the ages of the individuals involved and whether or not the respondent poses an ongoing threat to the safety of others. Repeat offenders may be subject to enhanced sanctions.

Depending on the nature of the violation and the record of the member, sanctions may include, but are not limited to, a warning, fine, suspension or permanent ban from membership or participation in any NGB or PSO. A sanction that relates to membership with one NGB or PSO is applicable to membership with all NGBs and/or PSOs.

Comment [A45]: probably ok with sexual misconducts

One or more of the following sanctions may be imposed upon any ~~member~~ member for any single ~~safe-Safe sport-Sport~~ violation:

(a) **Warning**

An official written notice that the member has violated relevant policies and/or rules and that more severe conduct will result should the member be involved in other violations.

(b) **Loss of privileges**

The member will be denied specified privileges for a designated period of time.

(c) **Behavioral requirement**

This includes required activities including, but not limited to, seeking counseling, ~~writing a letter of apology~~, etc.

(d) **Educational program**

Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others to aid them in learning about a specific topic or issue related to the violation for which the member participant was found responsible.

(e) **Probation**

Official notice that, should further violations of ~~safe-Safe sport-Sport~~ policies occur during a specified probationary period, the ~~member~~ member ~~participant~~ may become permanently ineligible.

(f) **Suspension**

Removal for a specified period of time after which the ~~member-participant~~ member is eligible to return. Conditions for re-admission to membership may be specified.

(g) **Eligibility restriction**

The member is deemed “not in good standing” with the Center for a specified period of time. Specific limits or exceptions may be granted by the Center.

(h) **Permanently ineligible**

Membership is revoked indefinitely.

(i) **Other sanctions**

Additional or alternate sanctions may be created and designed as deemed appropriate to the offense. Other sanctions may include listing on a publicly-available permanently or temporarily ineligible member participation list.

Comment [A46]: DON'T AGREE WITH THIS WILL RESULT IN LIBEL CLAIMS

Comment [A47]: The Center must indemnify the NGB or PSO with respect to the ban list.

(5) **Notice of the Center’s preliminary conclusion and recommended sanctions**

Both the complainant and the respondent will be notified in writing of the Center’s preliminary conclusion and recommended sanctions, if any. This notice of decision will identify the ~~safe-Safe sport-Sport~~ policies at issue, whether a policy was more likely than not violated, the basis for the determination and any recommended sanctions. The notice will also state whether reasonable cause exists for the Center to pursue a complaint before the American Arbitration Association (“AAA”).

Notice to a responding member will be in writing and may be delivered by one or more of the following methods: in person by the Center’s Director of Investigations (or designee); mailed to the local or permanent address of the member as indicated in NGB or PSO records; or emailed to the member’s email account as indicated in NGB or PSO records. Once mailed, emailed and/or received in person, notice will be presumptively delivered. The letter of notice will:

- (a) include the alleged violation and notification of where to locate the code of conduct and disciplinary procedures;

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

(b) the basis for the determination that a policy was violated; and

(c) any recommended sanctions.

(d) The NGB or PSO will be copied on the letter of notice and all findings of the Center.

5.5. Review of the Center's decision

A. Complainant may seek review by the Standing Review Committee

Comment [RB48]: NGBs should have right to provide information or objections to SRC

If the Center concludes that no ~~safe-Safe Sport~~ violation occurred, the complainant may, within seven days of the decision, request review of the decision by the Center's Standing Review Committee, which is comprised of properly trained community members with experience in addressing sexual misconduct and child sexual abuse and who have familiarity with the Center's disciplinary process.

SRC review is limited to determining whether the disciplinary process was properly followed and whether the investigation was neutral and impartial. If the SRC determines that the disciplinary process was properly followed and the investigation was impartial, the Center's determination becomes final.

If the SRC determines that there were errors in the process or a lack of impartiality, the SRC will, within its discretion, direct what additional steps should be taken to remedy the errors. This may include re-assignment of the matter to a different investigator, including a third-party investigator not affiliated with the Center.

B. Respondent may seek a hearing before the American Arbitration Association

If the Center concludes that a ~~safe-Safe sport-Sport~~ violation occurred, the respondent may, under limited circumstances, have the opportunity to be heard before the American Arbitration Association. The respondent may request AAA arbitration if:

- the respondent objects to the Center's preliminary conclusion or recommended sanctions;
- the respondent is a current member; and
- the Center's conclusion or sanctions, if accepted, would deny the respondent the opportunity to participate in any amateur athletic event or deem the respondent ineligible to participate.

Comment [A49]: Would add in accordance with right of hearing.

Through arbitration, the respondent may contest the Center's conclusion and sanctions in whole or in part. For example, the respondent may accept the conclusion that a violation occurred, but seek a hearing on the sanctions. Under these circumstances, the hearing will be limited to deciding whether the sanctions were appropriate.

If the respondent decides to pursue arbitration, the respondent must submit a written request to the Center within seven days of the Center's notice of decision. The request must state whether the respondent objects to the Center's conclusion, the sanctions or both.

The arbitration will proceed under the Center's Arbitration Rules as set forth in Section 6.

C. Final decision

If the Center concludes that a ~~safe-Safe sport-Sport~~ violation did not occur and the complainant does not timely request SRC review, the Center's decision will become final.

If the Center concludes that a ~~safe-Safe sport-Sport~~ violation occurred and the respondent does not have the right to be heard before AAA or does not timely exercise that right through a written request for AAA arbitration, the Center's decision will become final. Any recommended sanctions will be implemented immediately by the relevant NGB or PSO.

Comment [A50]: Nothing we can do about this, right?

Section 6: ARBITRATION RULES

6.1. Applicability

Except as modified and supplemented below, the American Arbitration Association Commercial Arbitration Rules will apply to any arbitration initiated under the Center's disciplinary process. If there is any discrepancy between the Commercial Arbitration Rules and the rules and procedures in this Section 6, the rules and procedures in this Section 6 will control.

6.2. Initiating arbitration

A. Demand

Within seven days of receiving a respondent's timely request for arbitration, the Center will initiate the arbitration proceeding by formally submitting the matter to AAA. The Center will file a complaint with the AAA, identifying: (1) the respondent; (2) the Center's written notice of decision; and (3) the respondent's request for an arbitration hearing.

The complaint must also identify the ~~safe-Safe sport-Sport~~ policies at issue and the basis for the Center's decision and identify with particularity all evidence the Center intends to rely on in the arbitration hearing to support the Center's factual findings, conclusions and/or recommended sanctions.

B. Response

Within seven days of the Center filing the complaint, the respondent may file a written response to the complaint, identifying the respondent's objections to the Center's findings, conclusions and/or recommended sanctions.

The response must also identify with particularity all evidence that the respondent intends to rely on in the arbitration hearing to challenge or rebut the Center's findings, conclusions and/or recommended sanctions.

C. Identification of evidence

Given that the Center's disciplinary process includes a complete investigative process, with extensive evidence gathering and multiple opportunities to be heard, the evidence relevant to any ~~safe-Safe sport-Sport~~ violation should be well-known to the Center and the respondent at the outset of arbitration. Absent exceptional circumstances that bear on the fundamental fairness of the hearing, the Center and the respondent shall not be permitted to offer new evidence that was available at the time

the arbitration complaint and response were filed, but not identified by the respective party in those pleadings.

6.3. **Parties**

The only parties to the arbitration will be the Center and the respondent, both of which may have legal counsel. No third party may be joined or participate as a party to the arbitration.

6.4. **Location**

The arbitration will take place in the United States at a location selected by the arbitrator using criteria established by the AAA. The arbitrator should make every effort to accommodate a location that is convenient for the parties and anticipated witnesses.

6.5. **Confidentiality**

Any arbitration hearing will be confidential and closed to the public, unless the parties agree that the hearing be open to the public. An arbitration hearing that addresses ~~safe-Safe sport~~ Sport violations involving sexualized behaviors will never be open to the public.

6.6. **Scope of the hearing**

The scope of the arbitration hearing will depend on whether the respondent objects to the Center's conclusion that a violation more likely than not occurred, the Center's recommended sanctions or both. No other claims or issues will be heard and no pleadings other than the complaint and response may be filed. The arbitration hearing is limited to considering: (1) whether the Center's determination that a ~~safe-Safe sport-Sport~~ policy was violated was justified based upon the preponderance of the evidence standard; and (2) whether the recommended sanctions are appropriate.

6.7. **Expedited hearing**

At the request of either party, any aspect of these procedures may be expedited by the arbitrator if doing so is reasonably necessary to determine the respondent's eligibility to participate in an amateur athletic event. In deciding whether to expedite any aspect of the arbitration hearing process, the arbitrator must balance the need for an accelerated process with both parties' right to a fair hearing. Expedited procedures will not eliminate the respondent's right to request a panel of three arbitrators.

6.8. **Appointment of the arbitrator or panel**

The arbitrator or arbitration panel will be appointed using an expedited process established by AAA. In all cases, the appointment of an arbitrator or 3-member arbitration panel will be completed no later than 14 days after the Center initiates the arbitration.

A. Number of arbitrators

One arbitrator will handle the arbitration unless the respondent requests a three-member panel. The respondent must request a panel of three arbitrators no later than seven days after the Center files its complaint.

B. Qualifications of the arbitrator

All arbitrators selected to handle this type of arbitration must have special training in ~~safe-Safe sport-Sport~~ programs and policies. At least one of the arbitrators selected must be a licensed attorney in good standing.

All arbitrators must be neutral and free of any conflict of interest. Any party seeking to disqualify an arbitrator must file a challenge with AAA at least 48 hours prior to the scheduled hearing. AAA shall determine whether the arbitrator should be disqualified. AAA will inform the parties of its decision, which is conclusive.

C. Communications with the arbitrator

Neither party, nor anyone acting on behalf of either party, is permitted to communicate unilaterally with an individual arbitrator or arbitrator candidate. Unless agreed to by the parties or directed by the arbitrator, any communication from either party to an arbitrator must be sent to AAA for transmittal to the arbitrator.

6.9. **Exchange of information**

The Center's decision, investigator's report, any witness statements obtained and any written comments previously submitted by the complainant and respondent during the Center's investigation will be produced upon request.

At least seven days prior to the hearing, unless otherwise agreed to by the parties or ordered by the arbitrator, the parties will exchange copies of all exhibits to be used at the hearing and a list of all witnesses expected to testify.

The arbitrator is authorized to resolve any disputes concerning the exchange of information. At the discretion of the arbitrator or at the request of either party, the arbitrator may direct

either party to produce additional documents or information, so long as this does not hinder the expedited and limited nature of the arbitration or violate a privilege.

The arbitrator should refuse to require the exchange of any evidence or information that could have a potentially chilling effect on the Center's disciplinary process or that is likely to intimidate a witness.

6.10. **Hearing**

A. Date and time of hearing

Absent exceptional circumstances or an agreement of the parties, the arbitration hearing should be completed within 30 days of the appointment of the arbitrator. The hearing process may be expedited if necessary and on good cause shown by the requesting party. For example, the arbitrator may decide to expedite the process to determine whether the respondent can participate in an amateur athletic event that will occur before the hearing date.

B. Attendance at the hearing

The arbitrator and AAA will maintain the privacy of all hearings. The parties and their representatives have the right to attend the hearing. The victim also has the right to attend with a personal advocate. The arbitrator has discretion to determine who else can attend the hearing. The arbitrator also has discretion to exclude any person during the testimony of a witness.

Hearings or a portion of a hearing, may be conducted telephonically if: (1) both parties agree or; (2) the arbitrator agrees to one party's request for a telephonic hearing.

C. Conduct of the hearing

(1) Procedure

The parties can agree to waive an oral hearing(s) in favor of a hearing conducted solely through written submissions and briefing.

During an oral hearing, the Center will present evidence to support its determination that the ~~safe~~ Safe sport ~~Sport~~ policy was violated and that its recommended sanctions are appropriate. The respondent may present evidence to support the respondent's objections to the Center's decision.

The arbitrator has general authority and discretion over the conduct of the hearing and may, among other things, set time frames for witness testimony, limit opening/closing statements or their length and limit the duration of any hearing.

(2) Discretionary protective measures

Witnesses for each party will submit to questions from the arbitrator and the adverse party. The arbitrator has discretion to vary this procedure to further protect witnesses, for example by requiring written questions or limiting who can question particular witnesses. Protective measures must be implemented in a way that treats each party equally, allows each party the right to be heard and gives each party a fair opportunity to present its case.

In matters involving highly sensitive cases, including matters involving sexualized behaviors, the direct questioning of a victim by the respondent or respondent's counsel should be prohibited. Instead, questions directed to a victim may go through the arbitrator or panel, who has discretion to decide which, if any, questions will be asked.

(3) Mandatory protective measures

In cases involving sexual misconduct, child sexual abuse and any case involving a child or young person, protective measures shall include:

- During any questioning of a victim, the respondent will be screened from view of the victim unless the victim requests that screening not be used. Screening may include the use of a remote video link, if hearing facilities do not adequately allow for screening.
- The victim is permitted to submit a written victim impact statement.

(4) Additional protective measures for children or young persons

(a) Avoiding a risk of harm

Generally, the arbitrator should avoid taking live testimony from any child or young person during a hearing. Where available, the arbitrator should rely on written statements, audio or videotaped interviews, interview transcripts and/or the investigator's testimony or written report concerning his or her interview with the child or young person.

Before permitting or requiring a child or young person to testify in a live hearing, the arbitrator shall always consider whether requiring the child or young person to testify poses any risk of harm, and how to best minimize that potential harm.

The arbitrator shall weigh the interest in achieving a fair hearing and the possible advantages that the child's or young person's testimony will bring to the determination of truth against the possibility that giving testimony will damage the child's welfare or emotional development.

In doing so, the arbitrator shall consider the following factors:

- the child's or young person's willingness to give evidence (an unwilling child or young person should rarely, if ever, be required to give evidence);
- the child's or young person's particular needs and abilities;
- the issues that need to be determined;
- the nature and gravity of the issues to be determined;
- the source of any allegations;
- whether the case depends on the child's or young person's allegations alone;
- corroborative evidence;
- the quality and reliability of the existing evidence;
- whether the child or young person has retracted allegations;
- the nature of any challenge a party wishes to make;
- the age, maturity, vulnerability and understanding, capacity and competence of the child or young person;
- the length of time since the events in question;
- the support or lack of support the child has;
- the quality and importance of the child's evidence;
- the right to challenge evidence;
- whether justice can be done without further questioning;
- the risk of further delay; and
- the wishes and views of any parent, person with parental responsibility for the child or any guardian if appropriate.

(b) Additional considerations

If taking the live testimony of a child or young person is deemed necessary by the arbitrator, in advance of taking testimony, the arbitrator shall consider:

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

- the need for and use of a registered intermediary or other communication specialist to facilitate communication with the child or young person;
- the full range of special measures in light of the child's or young person's wishes and needs;
- information about the child's or young person's communication skills, length of concentration span and level of understanding;
- the timing and need for giving a child or young person breaks during testimony;
- the involvement and identity of a supporter for the child;
- the schedule for taking testimony so that the child or young person may avoid spending unnecessary time at the hearing;
- admitting as much of the child's or young person's evidence as possible in advance of the hearing to reduce any facts in dispute; and
- any other wishes and needs of the child or young person the arbitrator deems appropriate.

D. Evidence at the hearing

(1) Conformity to the legal rules of evidence not required

Conformity to legal rules of evidence is not required. The arbitrator will determine the admissibility, relevance and materiality of the evidence offered.

(2) Admissible evidence

The report of the investigator and any witness statements obtained during the Center's investigation will be admissible as the primary evidence considered during the hearing. An investigator may testify at the hearing about the scope of the investigation, the information obtained and/or considered and the content of the investigator's report.

(3) Limitation on new evidence

The arbitration hearing is not an opportunity for the Center or the respondent to present new evidence that was not previously identified in the arbitration complaint and response. Absent exceptional circumstances that bear on the fundamental fairness of the hearing, the Center and the respondent shall not be permitted to offer new evidence that was available at the time the arbitration complaint and response were filed, but not identified by the respective party in those pleadings.

(4) Adverse inference permitted

The arbitrator is entitled to take an adverse inference against a respondent based upon his or her refusal to cooperate or participate during arbitration.

(5) Evidence of past sexual history or sexual character

Evidence involving the prior sexual history or sexual character of either the complainant or respondent is not admissible unless the arbitrator deems such information highly relevant. All such information sought to be admitted by a party will be presumed irrelevant until a showing of relevance is made, in advance of the hearing, to the arbitrator. Demonstration of pattern, repeated and/or predatory behavior by the respondent, in the form of previous findings in any administrative or legal proceeding will always be relevant to the finding, not just the sanction. The parties will be notified in advance if any such information is deemed relevant and will be introduced at the hearing.

6.11. Arbitration decision

The arbitrator shall issue a reasoned decision in writing and signed by the arbitrator (or a majority of the arbitrators if decided by a panel). This decision is binding; no appeal is permitted. The decision will be provided to each party. To maintain confidentiality, all references to individuals involved will be represented in a confidential manner (i.e., initials, numerals).

6.12. Time of decision

The arbitrator will make a prompt decision after the hearing. Unless otherwise agreed to by the parties or specified by law, the arbitrator must issue a decision no later than 7 days after the close of the hearing or, if oral hearings were waived, from the date of AAA's transmittal of the final statements and proofs to the arbitrator.

6.13. Delivery of decision

The arbitrator or AAA shall deliver the final decision to the parties electronically the day the decision is issued.

6.14. Clerical errors

The arbitrator is not empowered to re-consider or re-determine the merits of any claim. However, either party may request that the arbitrator correct any clerical or typographical errors in the decision within five days of receipt of the decision. The non-requesting party has five days to submit a response to the other party's request for any correction.

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

6.15. **Expenses**

A. Witness expenses

The party producing a witness is responsible for the witness's expenses. In some circumstances, at the arbitrator's discretion, witnesses may testify telephonically.

B. AAA fees and arbitrator compensation

The Center will pay all AAA filing and administrative fees, arbitrator fees and other expenses incurred by AAA during the arbitration, including required travel and other reasonable and customary arbitrator expenses.

If the arbitrator determines that the respondent's request for a hearing was frivolous, malicious or in bad faith the arbitrator has discretion to require the respondent to pay all or a portion of the AAA fees and expenses.

Comment [A51]: WHY is center taking on full cost of arbitration – that \$\$ is then coming from NGB's in large part.

EXHIBIT 7

Archived: Friday, October 2, 2020 2:42:34 PM

From: [Mischel, Staciellen](#)

Sent: Thu, 7 Aug 2014 19:21:00 +0000Content

To: [Leube, Steve](#) ← Director of USTA Northern California's Regional Arm, "NorCal USTA"

Cc: [Cooke, Michael](#) [Booth, Rachel](#) [Kittelstad Tracy, Lauren](#) ← USTA in-house paralegal

Subject: Confidential Communication ← USTA in-house lawyer

Sensitivity: Normal ← President of NorCal USTA

Attachments:

[Burgos Richmond PD 8-7-2014.pdf](#) 

Steve, I have attached hereto a **revised correspondence** that we received today from the Richmond PD. This correspondence indicates that Mr. Burgos is being investigated by the Richmond PD for an allegation of sexual conduct with a minor.

As you know, the USTA reserves the right under Safe Play to suspend an individual's participation in any USTA Sanction tournaments, event, or program until said investigation is concluded.

Effective today, the USTA is suspending Mr. Burgos' right to participate in any USTA tournaments, event or programs.

In as though this member resides within the geographic area, it will be essential that your Sectional Association take all steps necessary to ensure that he complies with this suspension. Lauren will send you a copy of the notice to be issued to Mr. Burgos of the suspension.

Please understand in as though this is a sensitive matter, all information regarding this matter should be handled with care and treated as confidential.

If you have any additional questions or concerns, please do not hesitate to contact Lauren or our office.

Best Regard,

Staciellen Stevenson Mischel

Associate General Counsel & Deputy Chief Legal Officer

United States Tennis Association Incorporated

70 West Red Oak Lane

White Plains, New York 10604

(P) 914-697-2330

(F) 914-696-7089

Mischel@usta.com

Notice:

This e-mail communication (including any attachment) is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510 et seq. This communication is CONFIDENTIAL. Any legal advice contained herein is PRIVILEGED and intended only for disclosure to or use by the person(s) listed above. If you are neither the intended recipient(s), nor a person responsible for the delivery of this communication to the intended recipient(s), you are hereby notified that any retention, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately by using the "reply" feature and then immediately delete this message and all attachments from your computer. Thank you.

USTA_NATL-000842

Richmond Police Department

MEMORANDUM



TO: United States Tennis Association

ATTN: Stacy Mischel

FROM: Detective W. Nelson

DATE: 07 August 2014

SUBJECT: Normandie Burgos

Normandie Burgos (DOB: 12/12/1963, 145 Marina Lakes Drive, Richmond, CA 94804) is currently under investigation by the Richmond Police Department for an allegation of sexual conduct with a minor. It was alleged the conduct was initiated via Mr. Burgos' tennis coaching relationship to the victim.

Please feel free to follow up with me or the lead investigator, Detective Kris Tong (510-620-6669), with any questions or concerns regarding the investigation.



Detective W. Nelson, 1469
Domestic and Sexual Violence Unit
510-621-1746
wnelson@richmondcpd.net

EXHIBIT 8

Message

From: Booth, Rachel [rachel.booth@usta.com]
Sent: 3/27/2015 6:06:26 PM
To: Malia Arrington [Malia.Arrington@usoc.org]
CC: Kittelstad Tracy, Lauren [lauren.tracy@usta.com]
Subject: Center Policy
Attachments: 032415_ Revised draft policies and procedures CLEAN.docx

Exhibit 86

Tracy, L.

11/13/2020

@ptus

Hi Malia,

Attached are just a few comments on the revised policy, I also highlighted some typos. Our biggest concern, as you probably can anticipate, is the continuously evolving definition of member, specifically the inclusion of NGB employees (which contradicts prior discussions) and the revised, generic description of member- because of the varied nature of the membership models of 47 NGBs as well as classifications within each membership model we again would like to strongly petition against a 1 size fits all approach. It had appeared at our last meeting in Denver that there was alignment around each NGB providing their own definition. I know you stated in your transmittal email that the member definition would be the topic of further discussion – I look forward to discussing this issue on our next call.

Have a great weekend.

Rachel Booth
Counsel
United States Tennis Association
70 West Red Oak Lane
White Plains, New York 10604
(P) 914-697-2334
(F) 914-696-4316
www.usta.com

This e-mail communication (including any attachment) is covered by the Electronic Communications Privacy Act, 18 U.S.C. 2510 et seq. This communication is CONFIDENTIAL. Any legal advice contained herein is PRIVILEGED and intended only for disclosure to or use by the person(s) listed above. If you are neither the intended recipient(s), nor a person responsible for the delivery of this communication to the intended recipient(s), you are hereby notified that any retention, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify me immediately by using the "reply" feature and then immediately delete this message and all attachments from your computer. Thank you.

The United States Center for SafeSport

SAFE SPORT POLICIES AND DISCIPLINARY PROCEDURES

[DOCPROPERTY "DocID" * MERGEFORMAT]

*Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

Table of Contents

[TOC \o "1-6" \h \z \u]

CONFIDENTIAL

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

INTRODUCTION

Overview

The United States Center for Safe Sport is an independent legal entity not subject to the control of the U.S. Olympic Committee and U.S. Olympic or Pan-American national governing bodies. The Center is dedicated to creating a safe, healthy and supportive environment for all participants in member sport organizations, with a primary mission is to create an empowered sports community armed with the resources to fight abuse.

The Center pursues its mission in two key ways. First, through education, resources and training, the Center helps members of the sport community recognize and reduce misconduct in sport. Second, through the enforcement of these safe sport policies and disciplinary procedures, the Center regulates individual members of U.S. Olympic and Pan-American national governing bodies and Paralympic sport organizations by responding to allegations of misconduct.

The safe sport policies and disciplinary procedures are designed to allow the Center to assess whether a member poses a risk of harm to others in the sports community and to take appropriate action to address that risk of harm. These policies and procedures are broken into the following sections:

Definitions

Identifies and defines key terms used throughout the safe sport policies and disciplinary procedures.

Jurisdiction

Identifies the individuals and forms of misconduct that are subject to the Center's jurisdiction. The Center has exclusive administrative authority among NGBs and PSOs to address misconduct by individual members involving sexualized behaviors. The jurisdiction of the Center is not, however, intended to and shall not supersede or conflict with any jurisdiction of (a) law enforcement authorities or (b) employment practices of the relevant organization.

Code of conduct

Establishes rules prohibiting misconduct and identifies and describes several forms of sexualized and non-sexualized behaviors.

Reporting

Identifies what type of misconduct must be reported, who must/who can report misconduct violations and how to report violations.

Conduct process

Outlines the process used by the Center to investigate and resolve alleged misconduct. The Center's investigation is neutral, prompt and non-adversarial. The Center's investigators are advocates for the facts and do not advocate on behalf of any party or for a particular result.

Arbitration

Sets forth the Center's arbitration rules if an eligible member pursues an arbitration hearing concerning the Center's preliminary findings and/or recommended sanctions.

Application

The safe sport policies and disciplinary procedures apply to current and past members. To determine whether the safe sport policies and disciplinary procedures apply to an individual, please see the attached list of sports organizations at [URL] whose members are subject to these policies and procedures.

Comment [RB1]: How can this be enforced? Past member has not agreed to these policies nor can an NGB "sanction" a non-member

For those involved in the Center's disciplinary process, whether a complainant or respondent, the Center provides a neutral case manager to help you understand the process and your options. In addition, while the Center is not a victim's assistance agency, the Center's victim assistance coordinator will help victims identify resources in their community.

Limits

The Center does not have disciplinary authority over individuals who are not and were not members of a national governing body or Paralympic sports organization. However, if the Center is without jurisdiction to address the matter, the Center will attempt to connect the victim with the right resources.

Comment [RB2]: Same comment as above

The Center's jurisdiction extends only to the conduct of individuals. The Center does not regulate, investigate or audit national governing bodies or Paralympic sport organizations or their regional, state or local affiliated clubs. Specifically, the Center does not regulate, investigate or audit the supervision, management, employment or safe sport practices and policies of these organizations. Misconduct not within the Center's jurisdiction may be subject to a separate disciplinary process established by the relevant sport organization.

Section 1: DEFINITIONS

1.1. Athlete

An amateur athlete who meets the eligibility standards established by the NGB or PSO for the sport in which the athlete competes.

1.2. Complainant

A victim, or parent or guardian of a minor victim, who is pursuing a safe sport violation through the Center's disciplinary process. The complainant may or may not be the Reporter.

The Center, if it pursues or investigates a reported safe sport violation without the cooperation of the victim as set forth in Section 4.6B.

1.3. Minor or young person

A person who is under 18 years of age at the time of the alleged incident.

1.4. In-program activity or conduct

In-program activity or conduct refers to activities occurring during an organized, sponsored or sanctioned sport activity or event, such as games, tournaments, competitions, practice and travel.

1.5. Local sport club

A regional, state or local club or organization that is directly affiliated with an NGB or PSO and.

1.6. Member

For the purposes of these safe sport policies and disciplinary procedures a member includes the following: (a) any individual who is a member or license holder of a NGB or PSO (b) a NGB or PSO employee or (c) any individual the NGB or PSO formally authorizes, approves or appoints (i) to a position of authority over or (ii) to have frequent contact with athletes.

Members include current and past members as set forth at Section 2.1.

Comment [RB3]: Way to broad, not in keeping with agreement that each NGB would define its own membership- we have repeatedly been told that employees would be handled separately

1.7. National governing body or NGB

A Pan-American or U.S. Olympic national governing body recognized by the United States Olympic Committee pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. §§ 220501-220529.

1.8. Out-of-program activity or conduct

Out-of-program activity or conduct refers to activities occurring outside of an organized sport activity or event, such as games, tournaments, competition, practice and travel. Out-of-program conduct includes activity away from sports training, sporting events and programs and at places other than designated sports facilities.

1.9. Paralympic sport organization or PSO

A Paralympic sport organization recognized by the United States Olympic Committee pursuant to the Ted Stevens Olympic and Amateur Sports Act, 36 U.S.C. §§ 220501-220529.

1.10. Participant

Any coach, trainer, manager, administrator or official who participates in amateur sports programs offered or sanctioned by an NGB or PSO.

1.11. Reporter

The individual reporting a safe sport violation, who may or may not be the victim identified in the report.

1.12. Respondent or responding member

A member (as defined in 1.6) accused of the reported safe sport violation.

1.13. Safe sport policy

A policy developed and implemented by the safe sport entity consistent with its mission of promoting a safe and positive environment for athletes and other sport participants free of misconduct and inappropriate behavior.

1.14. Safe sport violation

A violation of (a) the code of conduct set forth in Section 3 or (b) any safe sport policy adopted by an NGB or PSO that addresses physical misconduct, emotional misconduct, bullying, hazing and harassment.

1.15. Sexual contact

Any contact with a person's breasts, genitals, buttocks, groin, mouth or any other body part that is touched in a sexual manner, however slight, by a person or an object to the body of another.

1.16. Victim(s)

The individual(s) identified as being the subject of a reported safe sport violation. The victim may or may not be the reporter.

Section 2: JURISDICTION

The USOC, NGBs, PSOs and other sport organization authorize the Center to investigate individual members concerning matters as set forth below.

2.1. Persons within the Center's jurisdiction

The Center has disciplinary authority over a person connected to an NGB or PSO as follows:

A. Current members

Every current member, including for alleged misconduct that occurred before or during membership. Current members include those individuals who have applied for membership or a license with an NGB or PSO.

Comment [RB4]: As defined by the NGB

B. Past members

An individual who was a member at the time of the alleged misconduct even if no longer a current member.

The Center retains jurisdiction over members who are accused of misconduct, even if those members choose to withdraw or terminate their membership after learning of the misconduct allegations.

To determine whether an NGB's or PSO's membership is subject to the Center's jurisdiction, click here to see a list of covered organizations [link to list of relevant organizations].

2.2. Activities within Center's jurisdiction

The Center's jurisdiction and disciplinary authority applies to conduct that takes place during in-program activities. It also applies to out-of-program activities if a member's conduct may present a danger or threat to the health and safety of him/herself or others.

Comment [RB5]: How is it possible to have jurisdiction over such activities?

2.3. Conduct within the Center's jurisdiction

A. Exclusive administrative jurisdiction (or "mandatory" jurisdiction)

The Center has jurisdiction over and shall resolve or adjudicate to a final resolution :

(1) Prohibited conduct involving sexualized behaviors

Allegations that a member violated the Center's **code of conduct** provisions designed to address sexualized behaviors, including boundary violations (Section

3.3B(1)(b)), grooming behaviors (Section 3.3B(1)(c)), child sexual abuse (Section 3.3B(2)), sexual misconduct (Sections 3.3B(3)), sexualized bullying (Section 3.3E(2)), and sexualized hazing (Section 3.3F(2)).

In addressing reports involving sexualized behaviors, the definitions set forth in the Center's code of conduct apply.

(2) Prohibited conduct not involving, but related to, an allegation of sexualized behavior

Allegations that a member engaged in other prohibited conduct that is reasonably related to and accompanies an alleged violation involving sexualized behaviors. This includes:

- (i) Alleged violations involving physical misconduct, emotional misconduct, non-sexualized bullying, non-sexualized hazing or non-sexualized hazing where conduct is reasonably related to and accompanies an alleged violation involving sexualized behaviors. For example, an allegation of sexual misconduct against a member may also include allegations that the member was emotionally or physically abusive and the Center would have administrative jurisdiction over the related emotional or physical misconduct.

In resolving reports of related prohibited conduct the Center will apply the definitions set forth in the following sections of the code of conduct: Section 3.3C (physical misconduct), Section 3.3D (emotional misconduct), Section 3.3E(1) (non-sexualized bullying), Section 3.3F(1) (non-sexualized hazing), and Section 3.3G(1) (non-sexualized harassment) unless the NGB or PSO has adopted its own definitions for these forms of misconduct.

- (ii) Alleged violations involving bystanding (Section 3.1B(3)), failure to report a violation (Section 4.1B(1)), bad-faith reporting (Section 4.8), retaliatory discrimination or harassment (Section 4.9), or abuse of process (Section 4.10). For example, the Center has jurisdiction over matters where a member allegedly retaliated in response to a witness reporting sexual misconduct to the Center.

In resolving reports of bystanding, retaliatory discrimination or harassment, bad-faith reporting or abuse of process, the definitions in the code of conduct shall apply.

(3) Other matters involving sexualized behaviors

Allegations that a member engaged in inappropriate sexualized behaviors even if the conduct is not explicitly addressed in the Center's code of conduct or other relevant policy.

B. Discretionary jurisdiction

On the written request of an NGB's or PSO's authorized representative the Center may, in its discretion, accept jurisdiction over the following:

(1) Prohibited conduct not involving sexualized behaviors

- (a) Allegations that a member engaged in prohibited conduct not involving sexualized behaviors, including physical misconduct, emotional misconduct, non-sexualized bullying, non-sexualized hazing and/or non-sexualized harassment.
- (b) In resolving such allegations, the Center will apply the definitions set forth in the following sections of the code of conduct: Section 3.3C (physical misconduct), Section 3.3D (emotional misconduct), Section 3.3E(1) (bullying), Section 3.3F(1) (hazing), and Section 3.3G(1) (harassment), unless an NGB or PSO has adopted its own safe sport policy definitions for these forms of misconduct.
- (c) In its discretion, the Center will determine whether it will handle such reports and may do so in limited circumstances.

(2) Matters previously addressed

The Center will not act as a reviewing or appellate body of previous NGB or PSO safe sport decisions. However, the Center may address a safe sport allegation involving sexualized behaviors that was previously addressed and resolved by an NGB or PSO to consider new evidence unavailable during the original hearing or investigation that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in any request to address such matters. Failure to provide information during or participate in an investigation or a hearing, even resulting from concern over pending criminal or civil proceedings, does not make evidence "unavailable" at the time of the hearing.

C. Jurisdictional limits

- (1) The Center does not have disciplinary authority over, and its processes do not supplant and will not interfere with, civil or criminal proceedings.
- (2) The Center does not have authority over and its processes do not supplant the employment practices of an NGB, PSO or other club or organization.
- (3) The Center's jurisdiction only extends to the conduct of individuals. The Center does not regulate, investigate or audit NGBs, PSOs or local sports clubs. Specifically, the Center does not regulate, investigate or audit the supervision, management, employment or safe sport practices and policies of these organizations. Misconduct that is not within the Center's jurisdiction may be subject to a separate disciplinary process established by the relevant sport organization.

2.4. Time limits

The Center's jurisdiction is not subject to any time limits, i.e., there is no statute of limitations. However, the longer someone waits to report a matter, the harder it may be for the Center to obtain information and witness statements and to make determinations regarding alleged violations. Anyone who is aware of misconduct is encouraged to report it as quickly as possible to the Center and/or relevant law enforcement authorities.

Section 3: CODE OF CONDUCT

3.1. Overview

The Center is committed to promoting and maintaining a safe and positive sports environment. To be effective, it is critical that all members understand and be able to identify the various forms of misconduct and that these standards be applied uniformly and consistently.

A. Applicability

(1) Members

The prohibited conduct described herein applies to members as follows:

- (a) All members are subject to the provisions that address sexualized behaviors including: boundary violations (Section 3.3B(1)(b)), grooming behaviors (Section 3.3B(1)(c)), child sexual abuse (Section 3.3B(2)), sexual misconduct (Section 3.3B(3)), sexualized bullying (Section 3.3E(2)), sexualized hazing (Section 3.3F(2)), and any other sexualized behaviors.
- (b) All members are subject to provisions addressing physical misconduct (Section 3.3C), emotional misconduct (Section 3.3D), bullying (Section 3.3B(1)), hazing (Section 3.3F(1)) and harassment (Section 3.3G(1)), unless a member's relevant governing body has adopted separate definitions to address these forms of misconduct.

Note: The Center's exclusive disciplinary authority does not include the provisions identified at Section 3.1(A)(1)(b). Although the Center's mandatory disciplinary authority does not include the forms of misconduct outlined in 3.1(A)(1)(b), misconduct that is not within the Center's jurisdiction may be subject to a separate disciplinary process established by your sport organization.

(2) Online, email, cellular or other electronic media or digital conduct

This code of conduct may be applied to behavior conducted online, distributed electronically using email, text messages or any other electronic medium. This includes without limitation blogs, web postings, chats and social networking sites. These postings may subject a member to allegations of code of conduct violations.

While the Center does not regularly search for this information, it may take action if and when information is brought to the attention of the Center

B. All misconduct prohibited

All forms of misconduct are intolerable and in direct conflict with the ideals of sport.

Athletes and sport participants should be provided a safe and positive environment for their physical, emotional and social development. Misconduct is behavior that detracts from that safe and positive environment or presents the potential for harm, regardless of whether it actually causes harm or was intended to cause harm.

Misconduct includes a wide continuum of inappropriate behaviors ranging from minor violations, such as poor safe sport practices, to serious violations involving sexual violence. While this code utilizes the umbrella term “misconduct,” the Center appreciates that in many cases the victim’s experience involves violence.

(1) Age, gender and competitive level irrelevant

With the exception of child sexual abuse, this code applies without regard to the age of the member. Similarly, the prohibited conduct set forth in this code applies equally to all members, regardless of gender and/or competitive level.

(2) Bystanding

Bystanding is an individual’s complicity with or failure to appropriately address known or obvious violations of the safe sport code, disciplinary process or law. Bystanding is prohibited under this code.

C. Relation to other law and policies

This code does not supersede, replace or otherwise abrogate:

- the Ted Stevens Olympic and Amateur Sports Act
- NGB or PSO employment policies or
- applicable federal or state law.

3.2. Key terms and definitions

In addition to the definitions and key terms set forth in Section 1, the following definitions apply to this code of conduct.

A. **Consent**

(1) **Definition**

Consent is words or actions that clearly indicate a person's voluntary agreement to engage in conduct. Consent must always be freely informed and actively given. Consent must be ongoing and it may be withdrawn at any time. Consent for one act does not imply consent for any subsequent act. Silence or lack of resistance does not imply consent.

Consent may never be obtained through coercion to compel another individual to initiate or continue an activity. Coercion encompasses a wide range of behaviors, including pressuring, threatening, intimidating, blackmailing or the use of guilt.

Consent cannot be obtained from an individual who is incapable of giving consent because the person:

- is a young person
- has a mental or intellectual disability that prevents the individual from giving consent
- is asleep, "blacked out," unconscious or physically helpless
- is incapacitated and/or unable to make informed rational judgments and decisions, including through the consumption of alcohol or drugs.

(2) **Consent in the context of sexual activity**

Consent to one form of sexual activity does not imply consent to other forms of sexual activity. Previous and/or current relationships or consensual activity does not imply consent to future sexual acts.

Consent cannot be procured by use of physical force, threats, intimidation or coercion. Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. If someone indicates to you that he or she does not want sex, that he or she wants to stop or that he or she does not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

To give effective consent, one must be of legal age in the jurisdiction where the sexualized activity or behavior occurs.

A person that have engaged in sexual activity with someone he/she knows to be—or should know to be—mentally or physically incapacitated (by alcohol or other drug use, unconsciousness or blackout), is in violation of this policy. Incapacitation is a state where one cannot make a rational, reasonable decision because he or she lacks the ability to understand the “who, what, when, where, why or how” of the sexual interaction.

This policy also covers someone whose incapacity results from mental disability, sleep, involuntary physical restraint or from the taking of a so-called “date-rape” drug.

Use of alcohol or other drugs will never excuse behavior that violates this policy.

B. Imbalance of power

An imbalance of power exists where one person in a relationship holds a superior position of power over the other. **Consent is not possible if the relationship involves an imbalance in power.** For example, a young person can never consent to conduct with an adult as an adult always holds a position of power over a young person. Factors relevant to determining whether there is an imbalance of power include but are not limited to the:

Comment [RB6]: This is not realistic in tennis- at the highest levels MANY female players date their own or other coaches- f imbalance could go either way - e.g. hugely successful player

- nature and extent of a person’s supervisory, evaluative or other authority over another
- actual relationship between the parties and their respective roles
- age of the parties involved and their intellectual capabilities

3.3. Prohibited conduct

A. Forms of misconduct

Misconduct comes in many forms. Misconduct may be intentional or unintentional. Misconduct may involve sexualized or non-sexualized behaviors. Misconduct may occur even if the conduct does not involve any threatened or actual harm.

To highlight the scope of conduct prohibited under this code, the code is organized around nine interrelated forms of misconduct:

- Boundary violations
- Grooming behaviors
- Child sexual abuse

- Sexual misconduct
- Physical misconduct
- Emotional misconduct
- Bullying (including sexualized bullying)
- Hazing (including sexualized hazing)
- Harassment

The same behavior or pattern of behavior may involve more than one form of misconduct. In addition, although described in this code as separate forms of misconduct, many of these forms of misconduct are interrelated. For example, child sexual abuse will typically include boundary violations, grooming behaviors, physical misconduct and emotional misconduct.

B. Sexualized behaviors

Sexualized behaviors, as set forth below, include without limitation boundary violations, grooming behaviors, child sexual abuse and sexual misconduct (romantic relationships involving an imbalance of power, sexual exploitation, sexual harassment, sexual assault and violence). They also include sexualized bullying and sexualized hazing.

(1) Prohibited boundary violations and grooming behaviors

(a) Overview

Preventing both child sexual abuse and sexual misconduct can be greatly improved when an informed community is able to identify and prohibit common behaviors that typically precede these forms of misconduct. These common “pre-offending” behaviors fall into two categories: boundary violations and grooming behaviors.

Alone, many of these behaviors or similar behaviors may occur without being part of a predatory or grooming process. However, to safeguard against sexual predators and to better protect all athletes and other sports participants, these behaviors are prohibited. Prohibited behavior is set forth below in the policies on boundary violations and grooming behaviors.

(b) Boundary violations

(i) Definition

Boundary violations occur when a person fails to respect appropriate age, social, emotional and professional boundaries with others.

Boundary violations often occur when an adult does not respect appropriate or well-established boundaries with a young person. However, boundary violations can also occur between two adults or between two young persons.

Boundary violations can sometimes lead to or create an environment conducive to more serious abuse. It may also lead to suspicions about an individual's motivation, even where no harm or sexual contact is intended. For example, a coach giving one young person too much attention, regularly transporting an athlete, who is not his or her child and/or contrary to policy, or encouraging physical contact with young persons without obvious justification, all may constitute boundary violations. At a minimum, boundary violations set a poor example and need to be addressed.

(ii) Exceptions

Boundary violations do not include professionally appropriate physical contact that occurs as a direct result of sports training or competition or for the purpose of athlete safety (e.g., spotting, positioning an athlete's body to improve or develop an athletic skill).

Provided that a parent or athlete has not explicitly requested that a coach or other individual not engage in the following types of conduct, boundary violations also do not include public expressions of celebration or consolation:

- greeting gestures such as high-fives, fist bumps and brief hugs
- congratulatory gestures such as celebratory hugs, "jump-arounds" and pats on the back for any form of athletic or personal accomplishment
- embracing a crying or distressed athlete (e.g., an athlete who has been injured or has just lost a competition)
- putting an arm around an athlete while verbally engaging them in an effort to calm them down ("side hugs")
- lifting a fallen athlete off the playing surface and "dusting them off" to encourage them to continue competition.

(iii) Examples

[PAGE * MERGEFORMAT] *Confidential draft - Not for public distribution
Subject to Nondisclosure Agreement*

Boundary violations may include but are not limited to:

Touching offenses:

- an adult tickling or wrestling (non-sport) with a young person
- close physical contact unrelated to sport, such as sitting on a lap or initiating hugging that is unwanted, excessive or of an intimate nature
- giving backrubs, rubdowns or massages contrary to team policy
- coach asking an athlete to touch him/her

Non-touching offenses:

- using humor with sexual content or innuendo
- making sexually provocative or degrading comments
-
- engaging in discussions of sexual activities or desires, such as a coach discussing his or her sex life with an athlete or any adult engaging in similar discussions with a young person
- an adult drinking alcohol with or furnishing alcohol to a young person (or any person under the legal drinking age – U.S. law)
- an adult having a secretive relationship with a young person
- frequent texting, messaging, or communicating via social or other digital media that is unrelated to participation in sport
- an adult intentionally and frequently calling or texting a young person without the consent or knowledge of the young person's parents.

(c) **Grooming behaviors**

(i) **Definition**

Grooming is a systematic process involving an observable pattern of behaviors in which a sexual predator uses trust to sexually abuse a vulnerable person (often a young person). The grooming process often involves six steps:

Step 1: Targeting the victim. An offender will identify a person and determine his or her vulnerabilities.

Step 2: Gaining trust. Through watching and gathering information about the targeted person, an offender will become acquainted with

his or her needs. The offender may also try to gain the trust of those closest to the victim such as a parent or close relative.

Step 3: Filling a need. Offenders will often give lavish gifts, extra attention and affection, or otherwise fulfill a need, to forge a bond with the victim.

Step 4: Isolating the target. By developing a special relationship with the targeted person and those around the targeted person, an offender creates situations in which he or she is alone with the targeted person.

Step 5: Sexualizing the relationship. An offender will desensitize a victim by, for example, providing access to pornography or talking to, taking photos of and even creating situations in which both the offender and victim are touching or naked. The offender then uses a victim's curiosity and feelings of stimulation to engage in sexual activity.

Step 6: Maintaining control. To ensure the victim's continued participation and silence, offenders may use secrecy and blame as well as other tactics; victims sometimes continue the relationship out of fear or shame at the thought of having to tell someone about the abuse.

Grooming behaviors are any pattern of behavior that includes repeated boundary violations, social or emotional manipulation, use of secrecy and/or attempts to isolate another person. Grooming also includes a pattern of behavior involving a combination of excessive attention, affection and gifts.

Grooming is identified by the pattern of behavior, not the intent of the person engaging in the conduct or whether the behavior ultimately leads to any sexual contact.

(ii) **Exceptions**

None.

(iii) **Examples**

Grooming behaviors, if part of a pattern of conduct, may include, but are not limited to:

- buying a person expensive gifts or multiple gifts or giving the person money; may take the form of compensating practice time or re-gifting donated sporting equipment or apparel
- an adult spending excessive time with a young person and/or his or her parents out-of-program
- sharing private or personal information and then asking the person to keep it secret
- seeking private or personal information under the promise that the information will be kept secret
- engaging in conduct to separate a person from his or her peers
- singling out a person for different treatment, such as giving an athlete far more personal attention than his or her teammates or offering special privileges
- seeking or creating opportunities to be alone with another, including during both in-program and out-of-program trips.

(d) **Related local safe sport policies**

Certain safe sport policies used to mitigate the risk of boundary violations and prohibited grooming behaviors are more appropriately developed and implemented at the local level and by sport. To determine whether you are subject to additional policies, consult with your sport organization.¹

(2) **Child sexual abuse**

(a) **Definition**

Child sexual abuse includes any sexual contact or activity with a young person. Child sexual abuse includes sexual contact that is accomplished by coercion, deception, manipulation, force or the threat of force.

A young person cannot consent to sexual activity with an adult. All sexual interactions between an adult and a young person are strictly prohibited even if the young person understands or agrees to the behavior.

¹ For local sport clubs that are considering adopting safe sport policies to address local team travel, overnight or team travel, social media, electronic and digital communications, gifting, physical contact or photography, sample policies on each of these topics can be found in the Center's Safe Sport Handbook. [\[hold for link\]](#)

Child sexual abuse is not limited to an adult's abuse of a young person, but may also include sexual contact between young persons. Peer-to-peer sexual activity may be abusive, depending on the existence of an aggressor, the age difference between the young persons involved and/or whether there is an imbalance of power and/or intellectual capabilities.

Child sexual abuse includes any act or conduct that constitutes child sexual abuse under federal or applicable state law.

(b) **Exceptions**

None.

(c) **Examples**

Sexually abusive acts involving young people may include but are not limited to:

Touching behaviors:

- sexual penetration
- sexual touching

Non-touching behaviors:

- sexually suggestive electronic or written communications
- making sexually explicit comments
- exposing a young person to pornographic images
- intentionally exposing oneself to a young person or voyeurism of a young person.

Note: Child sexual abuse often involves sexual misconduct, boundary violations, grooming behaviors, physical misconduct and emotional misconduct.

(3) **Sexual misconduct**

To ensure a safe environment and protect all members, this code broadly defines sexual misconduct to encompass a wide continuum of sexualized behaviors.

As set forth below, sexual misconduct includes those behaviors involving unwelcome, unwanted or non-consensual conduct of a sexual nature, including,

but not limited to, romantic relationships involving an imbalance of power, sexual exploitation, sexual harassment, sexual assault and sexual violence.

Sexual misconduct also includes any act or conduct described as sexual misconduct under federal or applicable state law.

(a) **Forms**

(i) **Romantic relationships involving an imbalance of power**

(A) **Definition**

Any sexual contact or any other intimate or romantic conduct is prohibited where there is an imbalance of power. These relationships are prohibited regardless of whether the relationship leads to sexual contact.

(B) **Coach-athlete romantic relationships**

An imbalance of power is always assumed between a coach and an athlete, both during coaching and during the period following the coaching relationship. Once the unique coach-athlete relationship is established, the authority and trust on the part of the coach over the athlete shall be assumed, regardless of age.

As a result, the age of the coach and athlete is not relevant if an imbalance of power could jeopardize effective decision-making. Coach-athlete romantic relationships are prohibited regardless of whether the relationship leads to sexual contact.

(C) **Exceptions**

An imbalance of power is not presumed in the coach-athlete relationship if there is a preexisting relationship between two spouses or life partners.

Comment [RB7]: Again- there are many instances of tennis pros currently dating their coaches-not realistic for tennis just to carve out exception for pre-existing relationships-how can we address?

(D) **Examples**

Examples of prohibited relationships may include but are not limited to:

Touching behaviors:

- any sexual contact between a coach and athlete

- a coach and athlete engaging in excessive hand holding or hugging or any other close physical contact unrelated to sport, such as sitting on a lap, of an intimate nature
- a coach and athlete “cuddling” or maintaining prolonged physical contact during any aspect of in-program or out-of-program activities..

Non-touching behaviors:

- a coach and athlete engaging in discussions with one another concerning sexual activities or desires or any aspect of their sex lives

(ii) **Sexual exploitation**

(A) **Definition**

Sexual exploitation includes taking advantage of another through a position of trust or an imbalance of power for one’s own advantage or benefit or to benefit or advantage anyone other than the one being exploited. Exploitation may occur regardless of whether the behavior ultimately leads to any sexual contact.

Sexual exploitation includes any sexual contact that occurs in a relationship where there is an imbalance of power, including between an athlete or other member and an individual who has direct or indirect authority or the authority to evaluate an athlete or member. Because these relationships involve an imbalance of power, judgment is likely to be impaired and consent to sexual contact cannot be given.

(B) **Exceptions**

None.

(C) **Examples**

Examples of sexual exploitation may include but are not limited to:

- voyeurism or spying on others who are in intimate or sexual situations, involving two adults

- exposing one's genitals or inducing another to expose his or her genitals in non-consensual circumstances
- taking pictures or video or audio recordings of another in a sexual act or in any other private activity, without the consent of all involved in the activity
- disseminating pictures or video or audio recordings of another in a sexual act or in any other private activity
- exchange of reward in sport (e.g., team placement, scores, feedback) for sexual favors
- threatening someone into unwanted sexual contact

(iii) **Sexual harassment**

(A) **Definition**

Sexual or gender-based verbal, written, online and/or physical conduct that: (1) is unwelcome, offensive or has the purpose or effect of creating a hostile environment; and (2) is sufficiently severe or intense to be harassing to a reasonable person in the context.

Sexual harassment includes any incident or conduct that affects an athlete's or participant's willingness or ability to participate in sport.

(B) **Exceptions**

None.

(C) **Examples**

Examples of sexual harassment may include but are not limited to:

- threatening retaliation against another who rejects sexual advances
- requesting or sending a nude or partial-dress photo to another
- displaying sexually suggestive images or exposing others to pornographic material
- deliberately exposing another to nudity (except in situations where locker rooms and changing areas are shared and in

conformance with each NGB's or PSO's locker room policy)

- making comments or inquiries about another's sexual experiences
- sending unwanted or unwelcome sexually explicit or suggestive electronic or written messages or photos (e.g., "sexting")
- making sexual gestures toward or about another athlete
- making sexual epithets, jokes or comments
- unwelcome leering or whistling.

(iv) **Sexual assault and violence**

(A) Definition

Any unwanted, unwelcome or non-consensual sexual contact or attempted sexual contact.

(B) Exceptions

None.

(C) Examples

Examples of sexual assault and sexual violence may include but are not limited to:

- unwanted kissing or touching
- unwanted rough or violent sexual contact
- any sexual contact that exceeds the consent given
- sexual contact with someone who is very drunk, drugged or unconscious
- sexual contact with a person who holds the inferior position in a relationship involving an imbalance of power
- rape or attempted rape

(4) **Other sexualized behaviors**

Prohibited sexualized behaviors may include but are not limited to sexualized bullying as set forth at Section 3.3E(2) and sexualized hazing as set forth at Section 3.3F(2).

The prohibited sexualized behaviors in this code may also involve boundary violations and/or grooming behaviors as set forth at Section 3.3B(1), physical misconduct as set forth at Section 3.3C and emotional misconduct set forth at Section 3.3D.

C. Physical misconduct

(1) Definition

Physical misconduct involves contact or non-contact conduct that causes or reasonably threatens to cause physical harm to another person.

Physical misconduct includes any act or conduct that constitutes physical abuse or misconduct under federal or applicable state law (e.g., child abuse, relationship violence, child neglect, assault).

(2) Exceptions

Physical misconduct does not include professionally-accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline or improving athlete performance.

For example, hitting, punching and kicking are well-regulated forms of contact in combat sports but have no place in swimming.

(3) Examples

Physical misconduct may include but is not limited to:

Contact violations

- punching, beating, biting, striking, choking or slapping another
- intentionally hitting another with objects, such as sporting equipment
- providing alcohol to an underage person (under the legal drinking age—U.S. law)
- providing illegal drugs or non-prescribed medications to another
- encouraging or knowingly permitting an athlete to return to play prematurely following a serious injury (e.g., a concussion) and without the clearance of a medical professional
- prescribing dieting or other weight-control methods (e.g., weigh-ins, caliper tests) without regard for the nutritional well-being and health of the athlete.

Non-contact violations

- isolating a person in a confined space, such as locking an athlete in a small space
- forcing an athlete to assume a painful stance or position for no athletic purpose (e.g., requiring an athlete to kneel on a harmful surface)
- withholding, recommending against, or denying adequate hydration, nutrition, medical attention or sleep.

Note: Physical abuse often involves bullying, harassment and hazing.

D. Emotional misconduct

(1) Definition

Emotional misconduct is a pattern of non-contact behavior such as insults, threats, humiliation, intimidation, isolation and other behaviors that have the potential to cause emotional or psychological harm to another person. Emotional misconduct is identified by the conduct and circumstances in which it occurred, including the age of the victim(s), not whether harm is intended or whether harm actually results from the misconduct.

Emotional misconduct is not a single inappropriate act or event (like a verbal outburst). However, depending on the severity of the outburst and the circumstances, the conduct should be addressed by the appropriate person as poor practice.

Emotional misconduct includes any act or conduct (e.g., psychological abuse, emotional abuse, mental abuse, child abuse) that constitutes emotional abuse or misconduct under federal or applicable state law.

(2) Exceptions

Emotional misconduct does not include professionally-accepted and age-appropriate coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline or improving athlete performance.

(3) **Examples**

Examples of emotional misconduct may include but are not limited to:

Verbal acts

- a pattern of verbal assault that repeatedly attacks someone personally (e.g., calling a person worthless, fat or disgusting)
- repeatedly and excessively yelling at a particular athlete or other participant in a manner that serves no productive training or motivational purpose.

Physical acts

- a pattern of physically aggressive behaviors, such as throwing sport equipment, water bottles or chairs at or in the presence of, athletes or other participants
- punching walls, windows or other objects.

Acts that deny attention and/or support

- a pattern of ignoring or isolating a person for extended periods of time, including routinely or arbitrarily excluding athletes from practice

Note: Emotional abuse often involves bullying, harassment and hazing.

E. **Bullying**

(1) **Definition**

Bullying is intentionally aggressive behavior, repeated over time that involves an imbalance of power. Bullying requires three key elements: an intent to harm, a power imbalance and repeated acts of threats or aggressive behavior.

Bullying also includes any act or conduct that constitutes bullying under federal or applicable state law.

Bullying may be sexual, physical, verbal or relational or carried out via technology.

(2) **Sexualized bullying**

Bullying may also include sexualized behaviors. Sexualized bullying is bullying that includes any sexual acts or behavior that is sexual in nature.

(3) Rude, mean and conflict -- distinguished

Rude

Rudeness is inadvertently saying or doing something that hurts someone else.

Mean

Meanness is purposefully saying or doing something to hurt someone but not as part of a pattern of behavior.

Conflict

Unlike bullying, a conflict is a struggle between two or more people who perceive they have incompatible goals or desires. Most conflicts arise in the moment because people of the same relative amount of power see the same situation from two different points of view.

(4) Exceptions

Bullying does not include group or team behaviors that: (1) are meant to establish normative team behaviors; or (2) promote team cohesion.

For example, bullying does not include verbal admonitions to encourage team members to train harder and to push through a difficult training regimen.

(5) Examples

Examples of bullying may include but are not limited to:

Repeated acts or threats of physical aggression

- hitting, pushing, punching, beating, biting, striking, kicking, choking, spitting or slapping
- throwing objects such as sporting equipment at another person.

Repeated acts or threats of verbal aggression

- teasing, ridiculing, taunting, name-calling or intimidating
- threatening to cause someone harm.

Repeated acts or threats of social aggression, including cyberbullying

- using rumors or false statements about someone to diminish their reputation
- using electronic communications, social media or other technology to harass, frighten, intimidate or humiliate someone
- embarrassing someone in public
- socially excluding someone and asking others to do the same.

Repeated acts or threats of sexual aggression

- teasing, ridiculing or taunting based on sexual orientation

Note: Bullying often involves physical misconduct, emotional misconduct and harassment.

F. **Hazing**

(1) **Definition**

Hazing includes any conduct that subjects another person, whether physically, mentally, emotionally or psychologically, to anything that may endanger, abuse, humiliate degrade or intimidate the person as a condition of joining or being socially accepted by a group, team or organization. A person cannot consent to being the subject of hazing, regardless of the person's perceived willingness to cooperate or participate.

Hazing also involves any act or conduct that constitutes hazing under federal or applicable state law.

(2) **Sexualized hazing**

Hazing misconduct also includes sexualized hazing, which is any hazing behavior that includes any sexual acts or behavior that is sexual in nature.

(3) **Exceptions**

Hazing does not include group or team activities that are meant to establish normative team behaviors or promote team cohesion.

(4) **Examples**

Examples of hazing may include but are not limited to:

Physical acts

- requiring or forcing the consumption of alcohol or illegal drugs, including binge drinking and drinking games
- tying, taping or otherwise physically restraining another person
- beating, paddling or other forms of physical assault
- excessive training requirements demanded of only particular individuals on a team that serve no productive training purpose
- sleep deprivation, otherwise unnecessary schedule disruptions or withholding of water and/or food
- restrictions on personal hygiene

Non-physical acts

- personal servitude
- requiring social actions (e.g., inappropriate or provocative clothing) or public displays (e.g., public nudity) that are illegal or meant to draw ridicule
- yelling at, swearing at or insulting new team members

Sexualized acts

- actual, or simulations of, sexual acts of any nature

Note: Hazing can often involve sexual misconduct, physical misconduct, emotional misconduct and bullying.

G. **Harassment**

(1) **Definition**

Harassment encompasses a wide range of behaviors involving a repeated pattern of conduct that: (a) is intended to cause fear, humiliation or annoyance; (b) offends or degrades; or (c) creates a hostile environment affecting a member's willingness or ability to participate in sport.

Conduct involving harassment will be evaluated considering the totality of the particular circumstances, including the nature, frequency, intensity, location, context and duration of the behavior. Although harassment often involves repeated incidents, a single serious incident may constitute harassment.

Harassment also includes any act or conduct described as harassment or stalking under federal or applicable state law.

(2) **Discriminatory harassment**

A repeated pattern of conduct that reflects discriminatory bias in an attempt to establish dominance, superiority or power over an individual athlete or group based on age, sex, race, color, ethnicity, culture, national origin, religion, sexual orientation, gender expression or mental or physical disability.

(3) **Stalking**

A course of behavior directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others or suffer substantial emotional distress. Stalking generally involves a course of conduct which includes two or more acts, involving persistent and frequent unwanted in-person contact, surveillance or unwanted telephone and other electronic contact.

(4) **Sexual harassment**

Harassment includes sexual harassment, which is more specifically defined as a form of sexual misconduct in Section 3.3B(3)(a)(iii).

(5) **Exceptions**

None.

(6) **Examples**

Examples of sexual harassment may include but are not limited to:

Physical harassment

- repeated grabbing, slapping, pinching, pushing or any other unwanted physical contact.

Non-physical harassment

- making negative or disparaging comments about a person's sexual orientation, gender expression, disability, religion, skin color or ethnic traits
- displaying offensive materials, gestures or symbols
- withholding or reducing an athlete's playing time or limiting the role of other participation in sport, based on that person's sexual orientation.

Stalking behaviors

- following a person

- appearing at a person's home, class, work or practice
- frequent phone calls, emails, text messages, etc.
- continuing to contact a person after receiving requests to stop
- leaving written messages, objects or unwanted gifts
- vandalizing a person's property
- threatening, intimidating or intrusive behavior.

Note: Harassment often involves sexual misconduct, emotional misconduct and bullying.

3.4. Additional code requirements

A. Knowledge and enforcement of this code

Members are provided a copy of the Center's safe sport policies and disciplinary procedures through the Center's website and hard copies may be downloaded and printed from the website.

Members are responsible for knowing the code of conduct. Ignorance of the code or its terms is not a defense.

The Center has the discretion to update and/or revise the code at any time. Once those changes are posted online, they are in effect, unless otherwise stated. Members are encouraged to check online for the updated versions of all policies and procedures. The Center oversees the evolution and improvement of the code and has final say over all interpretations of the code.

Members are encouraged to abide by the Code at all times; however, the Center's jurisdiction and disciplinary authority applies to conduct that takes place during in-program activities. It also applies to out-of-program activities when a member's conduct may present a danger or threat to the health and safety of him/herself or others.

B. Sanctions

A member who violates this code may be subject to the Center's disciplinary authority and any related sanctions. Further, misconduct that is not within the Center's jurisdiction may be subject to a separate disciplinary process and related sanctions established by your sport organization.

Section 4: REPORTING

4.1. Reporting requirements

A. What must be reported

The Center requires individual members, NGBs, PSOs and local sport clubs to report any form of sexualized behaviors or other safe sport violations that involve prohibited conduct that is reasonably related to and accompanies an alleged violation involving sexualized behavior, that is known or suspected (i.e., the member or organization has any reason to believe that misconduct occurred).

B. Who must report

- (1) Any individual member over the age of 18, other than a victim, who has actual knowledge, reason to believe or suspects that a safe sport violation involving sexualized behaviors has occurred or is occurring, is required to report (see section 4.3). Members who are required to report must do so promptly after learning of the alleged violation.
- (2) An individual member who is over the age of 18 and fails to report a safe sport violation may be subject to investigation and sanctions by the Center. The obligation to report may be satisfied by reporting through any of the options set forth in Section 4.3.
- (3) Exception: Victims of safe sport violations, even those victims that are members over the age of 18, are not required to report.

While the Center strongly encourages victims to report all safe sport violations, it recognizes that victims, particularly of sexual misconduct or sexual abuse, may not be ready or able to do so. It also recognizes that the Center's inability to offer complete confidentiality, as discussed below, may discourage some victims from reporting.

If a victim later decides to report a safe sport violation, the victim may do so at any time regardless of how much time has passed since the incident. However, the longer someone waits to report a matter, the harder it may be for the Center to obtain information and witness statements and to address alleged violations.

C. Who may report

Any person, whether or not a member or affiliated with an NGB or a PSO, may report a safe sport violation and is encouraged to do so.

D. Anonymous reporting is permitted

The Center permits anonymous reporting. However, an anonymous report may limit the Center's ability to investigate and respond to a complaint.

4.2. How to report

All known or suspected safe sport violations can be reported directly to the Center or an NGB or PSO.

A. Option 1: Reporting directly to the Center

Safe sport violations reported to the Center, should be reported through:

- The Center's telephone hotline: _____;
- The Center's website at _____;
- By email at _____; or
- By regular mail at _____.

B. Option 2: Reporting directly to an NGB or PSO

If an individual chooses to report directly to an NGB or PSO instead of the Center, he or she should refer to the relevant organization's reporting policies, which will identify a method by which reports should be made and the process by which the report will be transmitted to the Center.

NGBs and PSOs that become aware of or receive a report of a safe sport violation involving sexualized behaviors are required to give prompt written notice of the allegation to the Center. NGBs and PSOs shall give the Center notice of all alleged safe sport violations not involving sexualized behaviors to the Center on a quarterly basis.

C. The Center may initiate an investigation without a formal report

Once the Center receives notice of a matter within its mandatory jurisdiction, it has the discretion to initiate the disciplinary process regardless of how the Center was put on notice of the alleged violation.

4.3. Reporting to law enforcement

Reporting misconduct that may also be criminal to the Center does not satisfy any obligation under state or federal law to report known or suspected child physical or sexual abuse. If alleged misconduct may also be criminal, the Center strongly encourages that it be reported to law enforcement.

Members should not investigate suspicions or allegations of child abuse or neglect or attempt to evaluate the credibility or validity of allegations as a condition for reporting to appropriate law enforcement authority.

For state-by-state mandatory reporting laws, visit [[HYPERLINK "http://www.childwelfare.gov"](http://www.childwelfare.gov)].

4.4. Reports involving a young person

If reported misconduct involves a young person victim or respondent, the Center will promptly notify the young person's parents (unless the particular circumstances of the matter dictate otherwise, for example, if the parents are the accused) of the reported safe sport violation.

The Center will promptly and consistently report, as a matter of course, any allegations of child abuse or neglect to law enforcement as required under applicable state law.

The Center will endeavor to keep a young person's parents are kept informed throughout the investigative process. Parents may be present with the young person for any interviews, phone calls or communications during the investigation. Although the Center cannot guarantee confidentiality, the Center will take reasonable measures to protect the identity of a young person.

4.5. Confidentiality

A. Guidelines

Members (or parents of member athletes who are young persons) who report incidents of sexualized behavior may ask that members' names not be disclosed to the alleged perpetrators or that no investigation or disciplinary action be pursued to address the alleged sexualized behaviors. The Center strongly supports a members' interest in confidentiality in cases involving sexualized behaviors, particularly for victims, and will take all reasonable measures to honor such requests.

Even if a member does not specifically request confidentiality, to the extent possible, the Center will only disclose information regarding alleged incidents of sexualized

behaviors to individuals who are responsible for handling the Center's response. To improve trust in the process for investigating sexualized behaviors, the Center will notify members of the information that will be disclosed, to whom it will be disclosed and why.

Regardless whether a member requests confidentiality, the Center will take steps to protect the complainant as necessary, including taking interim measures before the final outcome of an investigation. Disseminating information and/or written materials to persons not involved in the conduct process is not permitted. Violations of the privacy of the complainant or the accused member may lead to conduct action by the Center.

B. Honoring requests for confidentiality

Honoring a complainant's request that his or her name not be revealed to the alleged perpetrator or asks that the Center not investigate or seek action against the alleged perpetrator will likely limit the Center's ability to respond fully to the incident, including pursuing disciplinary action against the alleged perpetrator.

If the complainant wishes to remain confidential and the Center cannot conduct an investigation into the particular incident or pursue disciplinary action against the alleged perpetrator as a result, the Center will nonetheless assist the victim in receiving other necessary protection and support, such as victim advocacy or health or mental health services.

C. Limits to the Center's ability to guarantee confidentiality during a conduct proceeding

The Center cannot guarantee complete confidentiality. For example, if an investigation is pursued, a respondent will be provided with sufficient information concerning the victim's identity to respond to the reported allegation. Or the Center will provide notice to the relevant organization of the allegation, particularly if the Center seeks an interim measure.

In addition, the Center will promptly and consistently report, as a matter of course, any allegations of child abuse or neglect to law enforcement as required under applicable state law. The Center does not investigate suspicions or allegations of child abuse and neglect, or attempt to evaluate the credibility of allegations, as a condition of reporting to appropriate law enforcement authorities.

D. Although rare, there are times when the Center may not be able to honor a victim's request for confidentiality

If a victim requests that his or her name not be disclosed to the alleged perpetrator or that the Center not investigate or seek action against the alleged perpetrator, the Center's Director of Investigations will determine if it can honor such the request while still providing a safe environment for participants, including a victim of sexual violence.

When weighing a victim's request for confidentiality that could preclude a meaningful investigation or potential disciplinary of the alleged perpetrator, the Center may consider a range of factors, including but not limited to:

- emotional or physical safety concerns for the victim or others
- the risk that the respondent will commit additional safe sport violations
- whether there have been other reports of safe sport violations or informal complaints about the respondent
- whether the respondent has a criminal record or history of criminal activity or violence
- whether the respondent has threatened violence against others
- whether the conduct was perpetrated with a weapon
- whether the conduct was committed by multiple perpetrators
- whether the alleged safe sport violation involves numerous perpetrators
- the severity of the alleged conduct
- the frequency and duration of the alleged conduct
- the ages of the individuals involved
- whether the Center has other means to obtain relevant evidence (i.e., security cameras, eye witnesses, other physical evidence)
- any other relevant considerations.

The presence of one or more of these factors could lead the Center to investigate and, if appropriate, pursue disciplinary action. If none of these factors is present, the Center will likely respect the victim's request for confidentiality.

E. Other options for victims

Reporting to the Center, NGBs and PSOs are not the only way for victims to report misconduct and find help. All victims are encouraged to seek assistance and support through other options.

- Report to law enforcement: If the victim of misconduct believes the conduct is not only a safe sport violation, but is also criminal, the Center encourages him or

her to report to law enforcement. Reports to law enforcement agencies may not be treated as confidential by that agency.

- Contact licensed counselors and/or seek other victim resources: The Center encourages victims to seek counseling, support or treatment through other resources, such as counseling centers, private counselors or victim hotlines. Many of these resources may be able to guarantee confidentiality. The Center provides a list of potential resources on its website.

4.6. Additional reporting considerations

A. Time limits

There is no time limit on reporting safe sport violations and the Center can investigate a reported safe sport violation by a member regardless of how long ago it occurred. However, the longer someone waits to report a matter, the harder it may be for the Center to obtain information and witness statements and to make determinations regarding alleged violations. Anyone who is aware of misconduct is encouraged to report it as quickly as possible to the Center and/or relevant law enforcement authorities.

B. Report misconduct even if unsure

If a member is unsure whether conduct constitutes a safe sport violation, he or she should report it; members should not attempt to investigate the alleged violation.

C. Amnesty

The Center does not want fear of punishment for other misconduct (such as underage drinking or similar conduct) to deter a complainant or witness from reporting a safe sport violation, especially a violation involving sexualized behaviors. On a case-by-case basis, and with the agreement of the relevant NGB, the Center may provide amnesty as outlined below.

(1) For victims

The Center may provide amnesty to victims who may be hesitant to report to Center officials because they fear that they themselves may be accused of minor policy violations, such as underage drinking, at the time of the incident. Educational options will be explored, but no conduct proceedings or conduct record will result. Records regarding the provision of amnesty, however, will be maintained.

(2) **For those who offer assistance**

To encourage members to help and provide assistance to others, the Center pursues a policy of amnesty for other violations when members offer help to others in need. At the discretion of the Center's Director of Investigations, amnesty may also be extended on a case-by-case basis to the person providing assistance. Educational options will be explored, but no conduct proceedings or conduct record will result.

(3) **For those who report serious violations**

- 4.7. Members who are engaged in other violations but who choose to bring related serious violations by others to the attention of the Center may be offered amnesty for their other violations. Educational options will be explored, but no conduct proceedings or record will result. **Bad-faith reporting or unfounded allegations**

The Center prohibits malicious, frivolous and/or bad faith reports of safe sport violations and it is a safe sport violation subject to the Center's jurisdiction and disciplinary process for a member to make such a report. In some circumstances, malicious, frivolous and/or bad faith reports may also subject those making such reports to civil or criminal proceedings.

4.8. **Retaliation**

The Center prohibits retaliation. Retaliation is any intentional, adverse action taken by a responding individual or allied third-party, absent legitimate or nondiscriminatory purposes, against a participant in the Center's proceedings or other protected activity.

Retaliating or threatening retaliation by a member against a complainant or witness is a safe sport violation. Members, including complainants, over the age of 18 are required to report retaliation.

Please note that because the Center's disciplinary authority is limited to members, the power to address retaliatory discrimination or harassment is likewise limited. The Center does not have any control or authority over the conduct of non-members.

Section 5: CONDUCT PROCESS

5.1. Overview

This Center's conduct process is administrative. It is designed to regulate individual membership by addressing safe sport violations within the Center's jurisdiction as set forth in Section 2.2. Not all situations are of the same severity or complexity. While applying this process consistently in similar situations is a priority for the Center, these procedures are flexible, will not be applied exactly the same in every situation and the Center reserves the right to modify its processes as it deems necessary.

A. About

1. Center as convener

The Center is the convener of every action under this policy. Within this action, there are several roles. The responding member, or the respondent, is the person who is alleged to have violated the Code. The party bringing the complaint, who may or may not be a member, may choose to be present and participate in the process as fully as the respondent. There are witnesses, who may offer information regarding the allegation. There is an investigator(s) whose role is to present the allegations and share the evidence that the Center has obtained regarding the allegations.

2. Neutral and non-adversarial

The conduct process is used to determine if a safe sport violation occurred based on the preponderance of the evidence, whether the individual that committed the safe sport violation can continue to be a member and, if so, under what conditions. This process is neutral and non-adversarial.

3. An investigative model – active fact gathering

The goal of the Center in this process is to collect facts, assess risk and respond in a proportionate manner that will minimize the risk of future violations and protect the NGB and PSO membership as a whole. This process relies on an investigation-based approach to gather facts and make preliminary findings and recommended sanctions.

4. Standard of proof

The Center uses a preponderance of the evidence (i.e., more likely than not) standard in its formal disciplinary and hearing process.

5. Applicable rules

Absent clear evidence that accepted community standards were different at the time of the alleged conduct, the applicable standards set forth in the code of conduct and the disciplinary procedures in this section apply to all matters, even if the conduct occurred before the safe sport policies and disciplinary procedures were adopted by the Center.

B. Steps

The Center's conduct process may include three steps: (1) intake, initial inquiry and/or informal resolution, (2) a formal disciplinary proceedings and (3) the opportunity for a formal hearing before the American Arbitration Association.

1. Step 1: Intake, initial inquiry and/or informal resolution

Intake: The Center will determine whether it has jurisdiction over the respondent and alleged violation.

Initial inquiry: An investigator with the Center will begin a preliminary collection of facts.

Informal resolution process: The Center may attempt to resolve some reports informally through an expedited process. If a respondent declines the opportunity to contest the report, in some circumstances, the Center may accept this decision and impose an appropriate sanction.

2. Step 2: Formal disciplinary proceedings

Investigation: In some circumstances, the Center will undertake a full investigation of the reported safe sport violation.

Preliminary findings: Following an investigation, the Center will make factual findings to whether a violation occurred based on the preponderance of the evidence.

Recommended sanctions: If the Center concludes that a violation more likely than not occurred, it will recommend any appropriate sanctions.

3. Step 3: Formal hearing

If a respondent rejects the Center's preliminary findings, sanctions or both, he or she may seek a hearing before the American Arbitration Association. Decisions by the AAA are final.

C. Limits

The Center's disciplinary authority extends only to the conduct of individuals. The Center does not regulate, investigate or audit NGBs, PSOs or local sport clubs. Specifically, the Center does not regulate, investigate or audit the supervision, management, employment or safe sport practices and policies of these organizations. Misconduct not within the Center's jurisdiction may be subject to a separate disciplinary process established by the relevant organization.

5.2. Relationship to other proceedings

A. Criminal investigations

1. Differences between the Center's investigation and a criminal investigation

A criminal investigation is intended to determine whether an individual violated criminal law. If at the conclusion of a criminal investigation the individual is tried and found guilty, he or she may be imprisoned or subject to other criminal penalties. The U.S. Constitution affords criminal defendants who face the risk of incarceration numerous protections, including, but not limited to, the right to counsel, the right to a speedy trial, the right to a jury trial, the right against self-incrimination and the right to confrontation. In addition, government officials responsible for criminal investigations (including police and prosecutors) normally have discretion as to which complaints from the public they will investigate.

By contrast, the Center's investigation will never result in incarceration of an individual. Members should be aware that the safe sport conduct process is different from criminal and civil court proceedings. Procedures and rights in conduct proceedings are conducted with fairness to all but do not include the same protections of due process afforded by the courts. Because the standards for pursuing and completing criminal investigations are different from those used for Center investigations, the termination of a criminal investigation without an arrest or conviction does not affect the Center's obligations.

Complainants have the right to file a criminal complaint and the Center encourages complainants to do so either during or after the Center's internal investigation.

2. Parallel investigations

- **Reporting**

If alleged misconduct may constitute both a safe sport violation *and* domestic or international criminal activity the Center shall promptly report to and cooperate with the appropriate agencies. The Center has no authority to and will not undertake a criminal investigation.

- **Cooperation**

The Center will cooperate in all criminal investigations and proceedings concerning the conduct of members.

- **Stay during criminal proceedings**

3. If the Center receives notice of an allegation over which it has jurisdiction, the Center reserves the right to proceed with the disciplinary process notwithstanding any criminal complaint that may arise from the same incident. The Center may exercise its authority of suspension upon notification that a member is facing criminal investigation and/or complaint. If the Center's disciplinary process is stayed, the Center may also seek suspension (or any other interim action) as set forth at Section ____, pending the outcome of the criminal proceedings. **Effect of criminal proceedings**

A criminal conviction may be determinative of whether an individual violated a relevant policy. However, the standards for finding a violation of criminal law are different from the standards for finding a violation of safe sport policies.

Therefore, a lack of conviction is *not* determinative of whether misconduct, for safe sport policy purposes, has occurred.

If the respondent is convicted of a crime or subject to disposition of a criminal proceeding (any adjudication of guilt or admission, plea to a lesser offense, a no contest plea, any type of deferred adjudication) related to the same conduct giving rise to a safe sport violation, the Center may immediately conclude that a safe sport violation occurred and direct an NGB or PSO to impose any appropriate sanctions. However, the Center reserves the right to pursue a full investigation related to all or part of an alleged safe sport violation following a disposition of a criminal proceeding.

B. Concurrent civil proceedings

The Center typically will not stay disciplinary proceedings pending the outcome of a concurrent civil proceeding but reserves the right to do so in its sole discretion.

5.3. Intake, initial inquiry and informal resolution

A. Notice and intake

When the Center receives notice of a safe sport violation, it will determine whether it has jurisdiction over the respondent and the alleged violation. If the Center determines it does not have jurisdiction, it will notify the reporting party and relevant NGB/PSO.

Next, the Center will determine whether the allegations, if true, would constitute a safe sport violation and whether there is enough information for the Center to investigate. The Center documents all reports and gives written notice to the relevant NGB/PSO even if the report is not investigated.

If the Center determines the report should be pursued further, it will provide notice of the reported safe sport violation to (1) the victim (if the reporter is not the victim), (2) the respondent and (3) the relevant NGB or PSO. The timing of notice is within the Center's discretion. In cases involving children or young persons, the Center will also provide notice to the victim's parents and/or the respondent's parents, unless the parent(s) are accused of the violation.

B. Initial inquiry

After receiving a report of a safe sport violation and determining the report should be further evaluated, the Center will begin collecting preliminary facts.

This preliminary fact collection will allow the Center, in consultation with its legal counsel, to determine appropriate next steps. In most cases, the Center will follow one of two paths: that the matter proceed through an informal resolution process or proceed to a formal disciplinary process, including a full investigation.

In some circumstances, the preliminary fact collection may indicate that further investigation is unnecessary. For example, if the basic facts of the report are contradicted by well-established facts, further investigation might be unnecessary (i.e., the respondent was in a different state than the complainant on the day of the alleged misconduct and there is no indication the complainant is mistaken about the date of the incident).

In addition, if a victim is not the reporter and declines to support or participate in this disciplinary process, the Center may choose not to proceed further.

Any decision to stop further investigation after the initial inquiry will be reviewed and approved by the Center's Director of Investigations. The victim, the respondent and relevant NGB/PSO will be notified of the outcome.

C. Informal resolution process

In some circumstances, often those involving more minor safe sport violations, the Center may initiate an informal resolution process rather than initiate a full investigation. This informal resolution process gives the Center flexibility to promptly and equitably resolve certain safe sport violations.

The Center will work informally with the complainant and the respondent to try to reach an acceptable resolution that will maintain or restore a safe and positive environment for all members. To resolve a report through the informal resolution process, the Center, the complainant and the respondent must agree to the Center's recommended resolution and sanctions (if any).

To be clear, an informal resolution is not settlement. Rather, this process conserves time and resources in less complicated and less serious cases while minimizing the risk of future violations and protecting the NGB and PSO membership as a whole.

In cases involving allegations of serious misconduct, including but not limited to sexual assault, child sexual abuse or any form of sexual violence, the Center will agree to an informal resolution only if the imposed sanction declares the respondent permanently ineligible for membership or participation in an NGB or PSO. In such cases, the respondent will be placed on the Center's permanently ineligible list.

In all cases, the Center may determine whether further investigation is nonetheless necessary to protect the community and whether the imposed sanction(s) will guarantee a safe and positive environment for all members.

5.4. Interim measures

The Center may direct the relevant NGB or PSO to implement necessary interim measures, such as a membership suspension or a no contact order, at any time after the Center receives a report of misconduct. *It is important to note, however, that the relevant NGB or PSO may not and likely does not control a member's employment with a local club or organization and the Center does not have jurisdiction to direct employment practices within any organization.*

The Center will give notice to a respondent of any interim action. A respondent may voluntarily accept an interim measure. Alternatively, if the interim measure deprives the respondent of the opportunity to participate in an amateur athletic competition and if requested, the respondent shall have the opportunity for a hearing before an arbitrator of the American Arbitration Association within 24 hours. If a respondent does not request a hearing, the interim measure will be deemed accepted.

A hearing regarding the validity of an interim measure does not require a finding that an alleged safe sport violation occurred. Instead, the purpose of the hearing is to evaluate whether, based on the information available at the time, there is reasonable cause to issue the interim action to protect the victim's (or potentially others') safety and well-being.

Nothing in this Section shall prevent an organization from taking appropriate, immediate action in response to an alleged safe sport violation, including suspension, if the organization deems it necessary for the safety and protection of the community.

5.5. Formal disciplinary process

A. Neutral case manager

A neutral case manager will be assigned to any matter that proceeds to a formal disciplinary proceeding. The neutral case manager will serve as the primary contact for the complainant and respondent during the disciplinary process. The case manager can answer questions about the Center's procedures, the status of the disciplinary process as it progresses and other questions that may arise. In addition, Center staff will work with to identify support resources in the parties' community.

B. Advisor

In addition to a neutral case manager, the parties have the right to an advisor/advocate of their choosing. The advisor may be an attorney. The advisor may not, however, make a presentation or represent the party bringing the complaint or the respondent during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions and suggest questions to their advisee.

C. Investigation

If the Center decides to conduct a full investigation, it will determine the timing and scope of the investigation based upon the particular circumstances of the alleged safe sport violation.

Investigations conducted by the Center will be overseen by and conducted at the direction of legal counsel for the Center, who may modify the process to protect the individuals involved or its integrity.

(1) The Center's primary goal is to collect facts

The Center's investigation is designed to be neutral, prompt and non-adversarial. The Center's investigators are advocates for the facts and do not advocate on behalf of any party or for a particular result.

During the investigation, it is the Center's responsibility to engage in fact gathering and to collect as much information about the reported safe sport violation as possible.

Neither the respondent nor the complainant is required to prove that a safe sport policy was or was not violated. Instead, it is the Center's job to determine whether, based on the preponderance of the evidence, a member violated relevant policy.

(2) Participation

During the investigation, both the complainant and the respondent are permitted to provide evidence, including written statements, lists of potential witnesses and other physical or documentary evidence, to the investigator for consideration.

It is important for the complainant and the respondent to cooperate and participate in this investigation process to ensure all relevant facts and evidence are presented to the Center to determine whether a safe sport violation occurred.

The investigation provides the respondent with an opportunity to rebut the charges against him or her. If a respondent declines to cooperate or participate in an investigation, the Center will make preliminary findings and recommend sanctions based on the available evidence.

(3) The investigator's role

The Center's legal counsel will designate and direct an investigator to address an alleged safe sport violation. The investigator may take the following steps, if not already completed:

- (a) Recommend any necessary interim actions, if they have not already been taken

- (b) Determine the identity and contact information of the party bringing the complaint, whether that person is the initiator of the complaint, the alleged victim or Center
- (c) Conduct an initial inquiry to identify an initial list of all policies that may have been violated, to review the history of the parties, the context of the incident, any potential patterns and the nature of the complaint
 - (i) If the victim is reluctant to pursue the complaint, determine whether the complaint should still be pursued and whether sufficient independent evidence could support the complaint without the participation of the victim
 - (ii) Notify the victim of whether the Center intends to pursue the complaint regardless of his or her involvement and inform the victim of his or her rights in the process and option to become involved if he or she so choose
 - (iii) An initial inquiry usually takes [____ to ____] days to complete. However, the initial inquiry may be delayed due to an ongoing criminal investigation.
- (e) Consult with the party bringing the complaint to finalize the complainant's statements, which will be drawn up by the investigator or designee as a result of this meeting
- (f) Commence a thorough, reliable and impartial investigation by developing a strategic investigation plan, including a witness list, evidence list, intended timeframe and order of interviews for all witnesses and the respondent
- (g) Interview all relevant witnesses, summarize the information they are able to share and have each witness sign the summary to verify its accuracy
- (h) Obtain all documentary evidence and information that is available
- (i) Obtain all physical evidence that is available
- (j) Complete the investigation promptly by analyzing all available evidence without unreasonable deviation from the intended timeline

D. Factual findings, preliminary conclusions and recommended sanctions

(1) Investigator's report and factual findings

In most cases, at the conclusion of the investigation, the investigator will prepare a written report which discusses and analyzes all of the relevant facts and makes factual findings.

Before the report is finalized, the complainant(s) and respondent(s) will each receive notice and be given the opportunity to respond to the investigator's findings. Following the receipt of any comments or additional evidence from the complainant and respondent, the investigator will finalize the report. The Center will place a reasonable time limit on responding to investigator's findings.

(2) The Center's preliminary conclusion and recommended sanctions

(a) Approval of report and factual findings

The Center's Director of Investigations will review the investigator's report and: (a) approve the report or (b) if necessary, ask the investigator to modify the report or conduct additional investigation and supplement and revise the report accordingly.

(b) Standard of proof and preliminary conclusions

Upon approval of the report, the Director of Investigations will adopt the investigator's factual findings and make a preliminary conclusion whether the respondent is responsible for a safe sport policy violation based on the preponderance of the evidence.

(c) Recommended sanctions

If the Director of Investigations concludes that a member is responsible for a safe sport violation based on the preponderance of the evidence, he or she will recommend appropriate sanctions. All recommended sanctions will be reviewed and approved by the Center's legal counsel.

(3) Scope of recommended sanctions

All recommended sanctions will be reasonable and proportionate to the safe sport violation and surrounding circumstances, consistent with sanctions issued for similar safe sport policy violations and designed to protect all members from future misconduct.

In determining appropriate sanctions, the Center may consider, among other things, the seriousness of the violation, the ages of the individuals involved and whether or not the respondent poses an ongoing threat to the safety of others. Repeat offenders may be subject to enhanced sanctions.

Depending on the nature of the violation and the record of the member, sanctions may include, but are not limited to, a warning, fine, conditions on participation/membership, suspension or permanent ban from membership or participation in any NGB or PSO. A sanction that relates to membership with one NGB or PSO is applicable to membership with all NGBs and/or PSOs.

One or more of the following sanctions may be recommended or imposed upon any member for any single safe sport violation:

(a) **Warning**

An official written notice that the member has violated relevant policies and/or rules and that more severe conduct may result should the member be involved in other violations.

(b) **Loss of privileges**

The member will be denied specified privileges for a designated period of time.

(c) **Behavioral requirement**

This includes required activities including, but not limited to, behavioral assessments.

(d) **Educational program**

Requirement to attend, present and/or participate in a program related to the violation. It may also be a requirement to sponsor or assist with a program for others to aid them in learning about a specific topic or issue related to the violation for which the member was found responsible.

(e) **Probation**

Official notice that, should further violations of safe sport policies occur during a specified probationary period, the member may become permanently ineligible.

(f) **Suspension**

Removal for a specified period of time after which the member is eligible to return. Conditions for re-admission to membership may be specified.

(g) **Eligibility restriction**

The member is deemed “not in good standing” with the Center for a specified period of time. Specific limits or exceptions may be granted by the Center. Participation is disallowed during this period.

(h) **Permanently ineligible**

Membership is revoked permanently.

(i) **Other sanctions**

Additional or alternate sanctions may be created and designed as deemed appropriate to the offense. Other sanctions may include listing on a publicly-available permanently or temporarily ineligible member list.

(4) **Notice of the Center’s preliminary conclusion and recommended sanctions**

Both the complainant and the respondent will be notified in writing of the Center’s preliminary conclusion and recommended sanctions, if any. This notice of decision will identify the safe sport policies at issue, whether a policy was more likely than not violated, the basis for the determination and any recommended sanctions.

Notice to a responding member will be in writing and may be delivered by one or more of the following methods: in person by the Center’s Director of Investigations (or designee); mailed to the local or permanent address of the member as indicated in NGB or PSO records; or emailed to the member’s email account as indicated in NGB or PSO records. Once mailed, emailed and/or received in person, notice will be presumptively delivered. The letter of notice will:

- (a) identify the alleged violation and where to locate the code of conduct and conduct procedures;
- (b) the basis for concluding the member is responsible for safe sport policy violation; and

- (c) any recommended sanctions.

5.6. Respondent's options

A. The respondent is found "not responsible"

Where the respondent is found not responsible for the alleged violation(s), the investigation will be closed. The party bringing the complaint, if any, may request that the Standing Review Committee, review the investigation file to possibly re-open the investigation or convene a hearing, as set forth in section _____. The decision to re-open an investigation or convene a hearing rests solely in the discretion of the Standing Review Committee and is granted only on the basis of extraordinary cause.

B. The respondent accepts a finding of "responsible"

1. The respondent accepts a finding of "responsible" and accepts the recommended sanctions

If the respondent accepts the finding that he or she violated the code and the recommended sanction, the NGB will implement the sanctions and the process ends. Under these circumstances, the respondent declines his or her opportunity for a hearing before the American Arbitration Association and this resolution is therefore not subject to a hearing before the AAA.

2. The respondent accepts a finding of "responsible" but rejects the recommended sanctions

If the respondent accepts the "responsible" findings but rejects the recommended sanctions, the respondent may seek a hearing before the American Arbitration Association as described in section _____ on only the sanction. Under these circumstances, the respondent declines his or her opportunity for a hearing before the American Arbitration Association as to the Center's findings.

C. The respondent rejects the findings completely or in part

1. The respondent rejects the findings completely

If the respondent rejects the finding that they violated the Center's code, a hearing before the American Arbitration Association will be convened within _____ business days, barring exigent circumstances and subject to the requirements set forth at section _____.

2. The respondent accepts the findings in part and rejects the findings in part

If the respondent rejects in part the finding that he or she violated the Center's code, there will be a hearing before AAA solely on the disputed allegations within ____ business days, barring exigent circumstances and subject to the requirements set forth at section ____.

5.7. Review of the Center's decision

A. Complainant may seek review by the Standing Review Committee

If the Center concludes that no safe sport violation occurred, the complainant may, within seven days of the decision, request review of the decision by the Center's Standing Review Committee, which is comprised of properly trained community members with experience in addressing sexual misconduct and child sexual abuse and who have familiarity with the Center's disciplinary process.

SRC review is limited to determining whether the disciplinary process was properly followed and whether the investigation was neutral and impartial. If the SRC determines that the disciplinary process was properly followed and the investigation was impartial, the Center's decision becomes final.

If the SRC determines that there were errors in the process or a lack of impartiality, the SRC will, within its discretion, direct what additional steps should be taken to remedy the errors. This may include re-assignment of the matter to a different investigator, including a third-party investigator not affiliated with the Center.

B. Respondent may seek a hearing before the American Arbitration Association

If the Center concludes that a safe sport violation occurred, the respondent may, under limited circumstances, have the opportunity to be heard before the American Arbitration Association. The respondent may request AAA arbitration if:

- the respondent objects to the Center's preliminary conclusion or recommended sanctions, and
- the Center's conclusion or sanctions, if accepted, would deny the respondent the opportunity to participate in any amateur athletic event or deem the respondent ineligible to participate under the Ted Stevens Act.

Through arbitration, the respondent may contest the Center's conclusion and sanctions in whole or in part. For example, the respondent may accept the conclusion that a violation occurred, but seek a hearing on the sanctions. Under these circumstances, the hearing will be limited to deciding whether the sanctions were appropriate.

If the respondent decides to pursue arbitration, the respondent must submit a written request to the Center within seven days of the Center's notice of decision. The request must state whether the respondent objects to the Center's conclusion, the sanctions or both.

The arbitration will proceed under the Center's Arbitration Rules as set forth in Section 6.

C. **Final decision**

If the Center concludes that a safe sport violation did not occur and the complainant does not timely request SRC review, the Center's decision will become final.

If the Center concludes that a safe sport violation occurred and the respondent does not have the right to be heard before AAA or does not timely exercise that right through a written request for AAA arbitration, the Center's decision will become final. Any recommended sanctions will be implemented immediately by the relevant NGB or PSO. Nothing in this section prohibits an NGB or PSO from seeking a more severe restricted consistent with the requirements of the Ted Stevens Act.

Formatted: Highlight

Section 6: ARBITRATION RULES

6.1. Applicability

Except as modified and supplemented below, the American Arbitration Association Commercial Arbitration Rules will apply to any arbitration initiated under the Center's disciplinary process. If there is any discrepancy between the Commercial Arbitration Rules and the rules and procedures in this Section 6, the rules and procedures in this Section 6 will control.

6.2. Initiating arbitration

A. Demand

Within seven days of receiving a respondent's timely request for arbitration, the Center will initiate the arbitration proceeding by formally submitting the matter to AAA.

B. Parties

The parties to the arbitration will be (a) the respondent and (b) the Center. If there is a complainant in the conduct proceeding, the complainant may also participate in the hearing before the AAA and present his or her complaint, or may elect to have the Center serve as the party bringing the complaint forward. Where there is no complainant, the Center will serve as the party bringing the complaint forward. No other third party may be joined or participate as a party to the arbitration.

C. Complaint

After initiating the arbitration proceeding the Center will file a complaint with the AAA, identifying: (1) the respondent; (2) the Center's written notice of decision; and (3) the respondent's request for an arbitration hearing.

The complaint must also identify the safe sport policies at issue and the basis for the Center's decision and identify with particularity all evidence the Center intends to rely on in the arbitration hearing to support the Center's factual findings, conclusions and/or recommended sanctions.

D. Response

Within seven days of the Center filing the complaint, the respondent may file a written response to the complaint, identifying the respondent's objections to the Center's findings, conclusions and/or recommended sanctions.

The response must also identify with particularity all evidence that the respondent intends to rely on in the arbitration hearing to challenge or rebut the Center's findings, conclusions and/or recommended sanctions.

E. Identification of evidence

- 6.3.** Given that the Center's disciplinary process includes a complete investigative process, with extensive evidence gathering and multiple opportunities to be heard, the evidence relevant to any safe sport violation should be well-known to the Center and the respondent at the outset of arbitration. Absent exceptional circumstances that bear on the fundamental fairness of the hearing, the parties shall not be permitted to offer new evidence that was available at the time the arbitration complaint and response were filed, but not identified by the respective party in those pleadings. **Location**

The arbitration will take place in the United States at a location selected by the arbitrator using criteria established by the AAA. The arbitrator should make every effort to accommodate a location that is convenient for the parties and anticipated witnesses.

6.4. Scope of the hearing

The scope of the arbitration hearing will depend on whether the respondent objects to the Center's conclusion that a violation more likely than not occurred, the Center's recommended sanctions or both. No other claims or issues will be heard and no pleadings other than the complaint and response may be filed. The arbitration hearing is limited to considering: (1) whether, based on the preponderance of the evidence, the respondent(s) violated safe sport policy and/or (2) the appropriate sanction(s).

6.5. Expedited hearing

At the request of either party, any aspect of these procedures may be expedited by the arbitrator if doing so is reasonably necessary to determine the respondent's eligibility to participate in an amateur athletic event. In deciding whether to expedite any aspect of the arbitration hearing process, the arbitrator must balance the need for an accelerated process with both parties' right to a fair hearing. Expedited procedures will not eliminate the respondent's right to request a panel of three arbitrators.

6.6. Appointment of the arbitrator or panel

The arbitrator or arbitration panel will be appointed using an expedited process established by AAA. In all cases, the appointment of an arbitrator or 3-member arbitration panel will be completed no later than 14 days after the Center initiates the arbitration.

A. Number of arbitrators

One arbitrator will handle the arbitration unless the respondent requests a three-member panel. The respondent must request a panel of three arbitrators no later than seven days after the Center files its complaint.

B. Qualifications of the arbitrator

All arbitrators selected to handle this type of arbitration must have special training in safe sport programs and policies. At least one of the arbitrators selected must be a licensed attorney in good standing.

All arbitrators must be neutral and free of any conflict of interest. Any party seeking to disqualify an arbitrator must file a challenge with AAA at least 48 hours prior to the scheduled hearing. AAA shall determine whether the arbitrator should be disqualified. AAA will inform the parties of its decision, which is conclusive.

C. Communications with the arbitrator

Neither party, nor anyone acting on behalf of either party, is permitted to communicate unilaterally with an individual arbitrator or arbitrator candidate. Unless agreed to by the parties or directed by the arbitrator, any communication from either party to an arbitrator must be sent to AAA for transmittal to the arbitrator.

6.7. Exchange of information

At least ___ days prior to the hearing, unless otherwise agreed to by the parties or ordered by the arbitrator, the following will occur:

- A. The respondent will deliver a written list of all witnesses to call at the hearing
- B. The respondent will deliver all physical evidence he or she intends to use or needs to have present at the hearing and will indicate who has possession or custody of such evidence, if known, so the Center can arrange for its presence
- C. The Center will deliver to the AAA a written list of all witnesses to call at the hearing

- D. The Center will deliver to the Center it intends to use or have present at the hearing

Formatted: Font: Complex Script Font: Times New Roman, Bold, Highlight

- E. The Center, complainant and respondent will notify the AAA of the names of any advisors who may be accompanying the parties at the hearing.

The arbitrator, in his or her discretion, may place limits on witnesses, documents, exhibits, etc. The arbitrator is also authorized to resolve any disputes concerning the exchange of information. At the discretion of the arbitrator or at the request of either party, the arbitrator may direct either party to produce additional documents or information, so long as this does not hinder the expedited and limited nature of the arbitration or violate a privilege.

The arbitrator should refuse to require the exchange of any evidence or information that could have a potentially chilling effect on the Center's disciplinary process or that is likely to intimidate a witness.

6.8. Hearing

A. Date and time of hearing

Absent exceptional circumstances or an agreement of the parties, the arbitration hearing should be completed within ___ days of the appointment of the arbitrator. The hearing process may be expedited if necessary and on good cause shown by the requesting party. For example, the arbitrator may decide to expedite the process to determine whether the respondent can participate in an amateur athletic event that will occur before the hearing date.

B. Conduct of the hearing

The AAA will conduct hearings according to the following guidelines

1. Confidentiality

Any arbitration hearing will be confidential and closed to the public, unless the parties agree that the hearing be open to the public. An arbitration hearing that involves allegations of sexualized behaviors will never be open to the public.

2. Attendance

Admission to the hearing of persons other than the parties (including the complainant) involved will be at the discretion of the AAA. Hearings or a portion of a hearing may be conducted telephonically or by video if: (1) both parties agree or (2) the arbitrator agrees to one party's request for a telephonic hearing.

3. Joint hearings

In hearings involving more than one respondent, the standard procedure will be to hear the complaints jointly; however, the AAA may permit the hearing pertinent to each respondent to be conducted separately. In joint hearings, separate determinations of responsibility will be made for each respondent.

4. Right to an advisor

The parties have the right to an advisor of their own choosing. The advisor may include an attorney. The complainant, even if not the party bringing the complaint, has the right to an advisor or advocate of his or her choosing. The advisor may not make a presentation or represent the party bringing the complaint or responding student during the hearing. They may confer quietly with their advisee, exchange notes, clarify procedural questions with the AAA and suggest questions to their advisee.

5. Procedure

The parties can agree to waive an oral hearing(s) in favor of a hearing conducted solely through written submissions and briefing.

During an oral hearing, the Center (or complainant if he or she wishes to present the complaint) and the respondent will be permitted to question all present witnesses (directly or through the AAA, at the discretion of the AAA).

Although the Center is responsible for bringing the complaint, a complainant who wishes to present his or her allegations may do so. The complainant (or the Center's Director of Investigations) will present the allegations first and be able to call witnesses. The respondent will then have an opportunity to cross-examine the complainant and the witnesses, subject to the special hearing provisions for sexualized behaviors and other complaints of a sensitive nature set forth at section 6.9.

The respondent may then present his or her defense followed by questioning from the complainant (or the Center's Director of Investigations) and subject to the special hearing provisions for sexualized behaviors and other complaints of a sensitive nature set forth at section 6.9.

Either party has the right to request that portions of the tape (or video recording) be rewound and replayed for the AAA and or witnesses. The AAA may set time limits for each of these segments of the hearing.

After the complainant or Center and the respondent have presented their arguments, each will be allowed to give a closing statement. The respondent will go first, then the complainant or Center.

If the AAA permit a complainant to submit a victim impact statement, this statement should be used by the AAA only if it determines that the respondent is in violation of the policy. This statement can be used by the AAA to decide what sanction to impose.

The arbitrator has general authority and discretion over the conduct of the hearing and may, among other things, set time frames for witness testimony, limit opening/closing statements or their length and limit the duration of any hearing.

6.9. Special hearing provisions for sexualized behaviors and other complaints of a sensitive nature

A. Discretionary protective measures

Witnesses for each party will submit to questions from the arbitrator and the adverse party. The arbitrator has discretion to vary this procedure to further protect witnesses, for example by requiring written questions or limiting who can question particular witnesses. Protective measures must be implemented in a way that treats each party equally, allows each party the right to be heard and gives each party a fair opportunity to present its case.

In matters involving highly sensitive cases, including matters involving sexualized behaviors, the direct questioning of a complainant by the respondent or respondent's counsel shall be prohibited unless otherwise requested in writing by the complainant. Instead, questions directed to a complainant may go through the arbitrator or panel, who has discretion to decide which, if any, questions will be asked.

B. Required protective measures – young persons

In cases involving a young person, protective measures shall include:

1. Avoiding a risk of harm

Generally, the arbitrator should avoid taking live testimony from any young person during a hearing. Where available, the arbitrator should rely on written statements, audio or videotaped interviews, interview transcripts and/or the

investigator's testimony or written report concerning his or her interview with the young person.

Before permitting or requiring a young person to testify in a live hearing, the arbitrator shall always consider whether requiring the young person to testify poses any risk of harm, and how to best minimize that potential harm.

The arbitrator shall weigh the interest in achieving a fair hearing and the possible advantages that the young person's testimony will bring to the determination of truth against the possibility that giving testimony will damage the young person's welfare or emotional development.

In doing so, the arbitrator shall consider the following factors:

- the young person's willingness to give evidence (an unwilling young person should rarely, if ever, be required to give evidence);
- the young person's particular needs and abilities;
- the issues that need to be determined;
- the nature and gravity of the issues to be determined;
- the source of any allegations;
- whether the case depends on the young person's allegations alone;
- corroborative evidence;
- the quality and reliability of the existing evidence;
- whether the young person has retracted allegations;
- the nature of any challenge a party wishes to make;
- the age, maturity, vulnerability and understanding, capacity and competence of the young person;
- the length of time since the events in question;
- the support or lack of support the young person has;
- the quality and importance of the young person's evidence;
- the right to challenge evidence;
- whether justice can be done without further questioning;
- the risk of further delay; and
- the wishes and views of any parent, person with parental responsibility for the young person or any guardian if appropriate.

2. Additional considerations

If taking the live testimony of a young person is deemed necessary by the arbitrator, in advance of taking testimony, the arbitrator shall consider:

- the need for and use of a registered intermediary or other communication specialist to facilitate communication with the young person;
- the full range of special measures in light of the young person's wishes and needs;
- information about the young person's communication skills, length of concentration span and level of understanding;
- the timing and need for giving a young person breaks during testimony;
- the involvement and identity of a supporter for the young person;
- the schedule for taking testimony so that the young person may avoid spending unnecessary time at the hearing;
- admitting as much of the young person's evidence as possible in advance of the hearing to reduce any facts in dispute, and
- any other wishes and needs of the young person the arbitrator deems appropriate.

6.10. Evidence at the hearing

A. Conformity to the legal rules of evidence not required

Conformity to legal rules of evidence is not required. The arbitrator will determine the admissibility, relevance and materiality of the evidence offered.

B. Admissible evidence

The report of the investigator and any witness statements obtained during the Center's investigation will be admissible as the primary evidence considered during the hearing. An investigator may testify at the hearing about the scope of the investigation, the information obtained and/or considered and the content of the investigator's report.

C. Limitation on new evidence

The arbitration hearing is not an opportunity for the Center or the respondent to present new evidence that was not previously identified in the arbitration complaint and response. Absent exceptional circumstances that bear on the fundamental fairness of the hearing, the Center and the respondent shall not be permitted to offer new evidence that was available at the time the arbitration complaint and response were filed, but not identified by the respective party in those pleadings.

D. Adverse inference permitted

The arbitrator is entitled to take an adverse inference against a respondent based upon his or her refusal to cooperate or participate during arbitration.

E. Evidence of past sexual history or sexual character

Evidence involving the prior sexual history or sexual character of either the complainant or respondent is not admissible unless the arbitrator deems such information highly relevant. All such information sought to be admitted by a party will be presumed irrelevant until a showing of relevance is made, in advance of the hearing, to the arbitrator. Demonstration of pattern, repeated and/or predatory behavior by the respondent, in the form of previous findings in any administrative or legal proceeding or other witnesses or victims will always be relevant to the finding, not just the sanction. The parties will be notified in advance if any such information is deemed relevant and will be introduced at the hearing.

6.11. Arbitration decision

The arbitrator shall issue a reasoned decision in writing and signed by the arbitrator (or a majority of the arbitrators if decided by a panel). This decision is binding; no appeal is permitted, and it shall be implemented immediately. The decision will be provided to each party. To maintain confidentiality, all references to individuals involved will be represented in a confidential manner (i.e., initials, numerals).

A. Time of decision

The arbitrator will make a prompt decision after the hearing. Unless otherwise agreed to by the parties or specified by law, the arbitrator must issue a decision no later than 7 days after the close of the hearing or, if oral hearings were waived, from the date of AAA's transmittal of the final statements and proofs to the arbitrator.

B. Delivery of decision

The arbitrator or AAA shall deliver the final decision to the parties electronically the day the decision is issued. Any sanctions will be implemented immediately by the relevant NGB or PSO. Nothing in this section prohibits an NGB or PSO from seeking a more severe restriction consistent with the requirements of the Ted Stevens Act.

C. Clerical errors

The arbitrator is not empowered to re-consider or re-determine the merits of any claim. However, either party may request that the arbitrator correct any clerical or typographical errors in the decision within five days of receipt of the decision. The

non-requesting party has five days to submit a response to the other party's request for any correction.

6.12. Expenses

A. Witness expenses

The party producing a witness is responsible for the witness's expenses, if any.

B. AAA fees and arbitrator compensation

The Center will pay all AAA filing and administrative fees, arbitrator fees and other expenses incurred by AAA during the arbitration, including required travel and other reasonable and customary arbitrator expenses.

If the arbitrator determines that the respondent's request for a hearing was frivolous, malicious or in bad faith the arbitrator has discretion to require the respondent to pay all or a portion of the AAA fees and expenses.

Respondent pays own attorney's fees and costs of respondent's witnesses, etc.

EXHIBIT 9

COPY

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION

4 CASE NO.: 6:22-cv-00615-PGB-LHP

5 KYLIE MCKENZIE,
6 Plaintiff,

7 vs.

8 UNITED STATES TENNIS
9 ASSOCIATION, INCORPORATED,
10 AND USTA PLAYER DEVELOPMENT,
11 INCORPORATED,

12 Defendants.

13 _____/

14

15 VIDEOTAPED DEPOSITION OF KYLIE MCKENZIE

16

17 Taken on behalf of: The Defendants

18 Date Taken: April 6, 2023

19 Time: 9:24 a.m. - 6:52 p.m.

20 Location Taken: Normand PLLC
21 3165 McCrory Place
22 Orlando, Florida 32803

23 Reported before: Amy DesChenes, FPR
24 stenographic court reporter
25 (via audio-video conference)

26

27

28 Diamond Reporting, Inc.
29 8421 Murray Court
30 Sanford, Florida 32771
31 407.810.0951 * dreporting@aol.com

1 A P P E A R A N C E S:

2

3 ROBERT ALLARD, ESQUIRE

4 Corsiglia McMahon & Allard

5 96 North Third Street

6 Suite 620

7 San Jose, California 95112

8 408.289.1417

9 Rallard@cmalaw.net

10 On behalf of the Plaintiff

11

12 KEVIN W. SHAUGHNESSY, ESQUIRE

13 MEAGAN L. MARTIN, ESQUIRE

14 Baker & Hostetler, LLP

15 200 South Orange Avenue

16 Suite 2300

17 Orlando, Florida 32801

18 407.649.4000

19 Kshaughnessy@bakerlaw.com

20 mmartin@bakerlaw.com

21 On behalf of the Defendants

22 Also present for Defendants: Staciellen Stevenson
23 Mischel, Associate General Counsel/Deputy Chief Legal
24 Officer for United States Tennis Association

24

25 Also present: Francois Mignon, Videographer

1 - - - -

2 C O N T E N T S

3		PAGE
4	TESTIMONY OF KYLIE MCKENZIE	6
5	Direct Examination by Mr. Shaughnessy	6
6	Certificate of Oath	296
7	Certificate of Reporter	297
8	Errata Page	298

9

10

11

12

13

14

15

16

17

18

19

20

21

22 S T I P U L A T I O N S

23 It is hereby stipulated and agreed by and between counsel
24 for the respective parties and the deponent that the reading
25 and signing of the transcript be reserved.

(Defendants' Exhibit Nos. 1-21 marked for identification.)

*Diamond Reporting, Inc. * 407.810.0951 * dreporting@aol.com*

1 things in food at restaurants that you don't know about --
2 have -- you know, your sensitivities.

3 Q Okay. And they said that you -- that you are
4 basically well-hydrated; that you drink 20 ounces of water five
5 times a day.

6 A I would always try to be -- you know, drink a lot.
7 Yeah.

8 Q You did not report any abdominal pain. But you had
9 abdominal discomfort or your stomach didn't feel well?

10 A Yeah. I think I remember being nauseous.

11 Q It says, Patient was taking birth control, but her
12 body did not handle them well.

13 Did you -- did you stop taking your pills, and that's what
14 caused this situation?

15 A No. The symptom I was having from the pill was not
16 related to these symptoms.

17 Q Okay. And then it says, She tried OCPs for three
18 weeks, and mostly because of mid-cycle bleeding, which was
19 associated with your menstruation?

20 A Basically, it was making me bleed more, so that's why
21 I stopped.

22 Q Okay.

23 A Yeah.

24 Q And then had you recently taken the morning-after
25 pill?

1 Q So in that next-to-last week when this is happening,
2 did you report that to anyone?

3 A No.

4 Q Did you call your mom, your dad, and say, hey, this
5 is really bizarre?

6 A No. Because I -- I wouldn't expect for something
7 like that to happen. I didn't -- didn't want to think that
8 that was happening. I --

9 Q You knew he was coming on to you, right?

10 A At the time I didn't -- I didn't feel like it --
11 like, I didn't know what was happening. I was naive.

12 Q So you're naive? Did you have a boyfriend before
13 then?

14 A No.

15 Q Did you ever have a guy come on to you before then?

16 A Yeah. But not like -- not like that. I was not
17 involved with boys really.

18 Q You didn't have any experience with boys or men at
19 that point?

20 A A few, but not a lot.

21 Q When you say a few, how many does that mean? How
22 many is that?

23 A Like, maybe two or three.

24 Q Were you involved in a relationship with a boy while
25 you were back at the campus in August to November of 2018?

1 questions, by the way. But go ahead.

2 A Well, I think I was ignoring the fact of what was
3 happening because I didn't want to believe that that was
4 happening. It's, like, it wasn't -- like, no way that he's
5 doing this.

6 BY MR. SHAUGHNESSY:

7 Q Were you ignoring it because you knew it was wrong?

8 MR. ALLARD: Objection. Leading.

9 A No. It was because -- I'm young and innocent. I
10 don't understand what's going on.

11 Q And you were 19 at the time?

12 A Yes.

13 Q And when you say you're innocent, does that mean you
14 wouldn't know it's inappropriate for a man to touch your -- or
15 run his hand across your breast, as you described?

16 A Innocent, as in, like --

17 MR. ALLARD: This feels like a blaming-the-victim
18 type situation, Kevin. Let's take a break.

19 MR. SHAUGHNESSY: I'm not blaming the victim. I'm
20 just trying to get to the facts and ask questions.

21 MR. ALLARD: Well, asking her if she thinks it's
22 wrong for the man who's running his hands across her
23 breast to make her feel like -- I just feel like
24 that's unfair.

25 But she's upset anyway, so let's take a quick break.

EXHIBIT 10

COPY

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION

4 CASE NO.: 6:22-cv-00615-PGB-LHP

5 KYLIE MCKENZIE,
6 Plaintiff,

7 vs.

8 UNITED STATES TENNIS
9 ASSOCIATION, INCORPORATED
10 AND USTA PLAYER DEVELOPMENT,
11 INCORPORATED,

12 Defendants.
13 _____/

14 VIDEOTAPED DEPOSITION OF KATHLEEN MCKENZIE
15 (via audio-video conference)

16 Taken on behalf of: The Defendants

17 Date taken: July 20, 2023

18 Time: 9:30 a.m. - 3:35 p.m. MST

19 Location: via audio-video conference
20 hosted by Diamond Reporting

21 Reported before: Randi Ginsberg
22 stenographic court reporter
23 via audio-video conference

24 Diamond Reporting, Inc.
25 8421 Murray Court
Sanford, Florida 32771
407.810.0951 * dreporting@aol.com

1 A P P E A R A N C E S:

2

3 ROBERT ALLARD, ESQUIRE (via audio-video conference)

4 MARK BOSKOVICH, ESQUIRE (via audio conference)

5 Corsiglia, McMahon & Allard, P.A.
6 96 North Third Street
7 Suite 620
San Jose, California 95112
408.289.1417

8 On behalf of the Plaintiff

9

10

11 KEVIN W. SHAUGHNESSY, ESQUIRE (via audio-video
12 conference)

13 MEAGAN L. MARTIN, ESQUIRE (via audio conference)

14 Baker & Hostetler, LLP
15 200 South Orange Avenue
Suite 2300
16 Orlando, Florida 32801
kshaughnessy@bakerlaw.com
mmartin@bakerlaw.com
17 407.649.4000

18 On behalf of the Defendants

19 Also present for the Defendants: Staciellen
20 Stevenson Mischel, Associate General Counsel &
Deputy Chief Legal Officer, United States
21 Tennis Association (via audio conference)

22

23 Also present: Erik Nelson, videographer (via audio
24 conference)

25

- - - -

C O N T E N T S

	PAGE
TESTIMONY OF KATHLEEN MCKENZIE	6
Direct examination by Mr. Shaughnessy	6
Certificate of Oath	174
Certificate of Reporter	175
Errata Page	176

S T I P U L A T I O N S

It is hereby stipulated and agreed by and
between counsel for the respective parties and the
deponent that the reading and signing of the
transcript be reserved.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - - -

E X H I B I T S

(Defendants' Exhibit Nos. 1-6 marked for
identification.)

DEFENDANTS'	DESCRIPTION	PAGE
No. 1	(Text message from Kylie McKenzie to Kathleen McKenzie)	75
No. 2	(Pro Coaching Agreement)	131
No. 3	(Pro Management Agreement)	132
No. 4	(First Amendment to Pro Management Agreement dated)	134
No. 5	(Second Amendment to the Pro Management Agreement)	138
No. 6	(Second Amendment to the Pro Coaching Agreement)	140

1 A I don't remember. Fifteen or sixteen. I
2 don't remember.

3 Q With respect to your conversation with
4 Kylie, did she admit that she was on her phone?

5 A I don't recall.

6 Q Did she admit that she was kissing boys or
7 interacting with boys when she should have been
8 practicing?

9 A It wasn't at practice. It was at a -- at
10 the pro tournament that she was just watching.

11 Q So she wasn't playing any tournament, she
12 was watching others play?

13 A Yes.

14 Q And that's when Leo saw her using her
15 phone or kissing someone, that's when he decided to
16 talk to her?

17 A I don't recall the details of how he knew
18 or what happened, but I just remember being at a
19 practice and him being upset and wanting to talk to
20 us.

21 Q And the incident with Roger and the
22 incident with Leo were the only incidents that Kylie
23 reported to you prior to November of 2018; is that
24 right?

25 A Yes.

1 about, but I remember we knew a Tommy and all of
2 them from the past tournaments and it somehow came
3 up.

4 Q Are you aware of any relationship
5 stressors, dealing with boys, dealing with other
6 tennis players, dealing with women, any other
7 stressors that she had?

8 A No.

9 Q Has she ever been pregnant?

10 A No.

11 Q Were there any pregnancy scares? Did she
12 ever talk to you about being possibly pregnant?

13 MR. BOSKOVICH: Objection.

14 Do not answer the question.

15 BY MR. SHAUGHNESSY:

16 Q Did she ever talk to you about some of the
17 players having different beliefs than she had?

18 A I don't recall that.

19 Q Okay. Are you aware that she took the
20 Plan B pill?

21 A No.

22 Q Did she ever talk to you about being
23 pregnant interfering with her career?

24 A No.

25 Q Did she ever talk to you about

EXHIBIT 11

COPY

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION

4 CASE NO.: 6:22-cv-00615-PGB-LHP

5 KYLIE MCKENZIE,
6 Plaintiff,

7 vs.

8 UNITED STATES TENNIS
9 ASSOCIATION, INCORPORATED
10 and USTA PLAYER DEVELOPMENT,
11 INCORPORATED,

12 Defendants.
13 _____/

14 VIDEOTAPED DEPOSITION OF

15 JULIA MARKEY l/k/a JULIA LOY-MARKEY

16 (via audio-video conference)

17 Taken on behalf of: The Defendants

18 Date taken: July 26, 2023

19 Time: 3:10 p.m. - 5:51 p.m. ET

20 Location: via audio-video conference
21 hosted by Diamond Reporting

22 Reported before: Randi Ginsberg
23 stenographic court reporter
24 via audio-video conference

25 Diamond Reporting, Inc.
8421 Murray Court
Sanford, Florida 32771
407.810.0951 * dreporting@aol.com

1 A P P E A R A N C E S:

2

3 AMY JUDKINS, ESQUIRE (via audio conference)

4 Normand Law, PLLC
5 3165 McCrory Place
6 Suite 175
7 Orlando, Florida 32803
8 amy.judkins@normandpllc.com
9 407.603.6031

10 On behalf of the Plaintiff

11

12

13 MEAGAN L. MARTIN, ESQUIRE (via video-audio
14 conference)

15 Baker & Hostetler, LLP
16 200 South Orange Avenue
17 Suite 2300
18 Orlando, Florida 32801
19 mmartin@bakerlaw.com
20 407.649.4000

21 On behalf of the Defendants

22

23 Also present for the Defendants: Staciellen
24 Stevenson Mischel, Associate General Counsel &
25 Deputy Chief Legal Officer, United States
Tennis Association (via audio conference)

26

27 Also present: Erik Nelson, videographer (via audio
28 conference)

29

30

31

- - - -

C O N T E N T S

	PAGE
TESTIMONY OF JULIA MARKEY 1/k/a JULIA LOY-MARKEY	6
Direct examination by Ms. Martin	6
Certificate of Oath	105
Certificate of Reporter	106
Errata Page	107

S T I P U L A T I O N S

It is hereby stipulated and agreed by and between counsel for the respective parties and the deponent that the reading and signing of the transcript be reserved.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- - - -

E X H I B I T S

(Defendants' Exhibit No. 1 marked for
identification.)

DEFENDANTS'	DESCRIPTION	PAGE
No. 1	(Email chain)	65

1 when you're so young and inexperienced, it's very
2 difficult mentally, emotionally.

3 Q What do you mean by "inexperienced"?

4 A She never really had a boyfriend prior to
5 Nate, I believe was her first serious boyfriend. So
6 inexperienced with men in general and just being
7 young, 18, life experience.

8 Q Were you aware that Kylie McKenzie had a
9 sexual relationship with another player at the USTA
10 prior to her relationship with [REDACTED]?

11 A No, I was not aware.

12 Q Were you aware that Kylie McKenzie took
13 the Plan B pill prior to her relationship with [REDACTED]
14 [REDACTED]?

15 A No.

16 Q Other than what you already discussed, was
17 there any other information that Kylie provided to
18 you regarding -- regarding Anibal Aranda?

19 A Specifically or USTA in general?

20 Q Specifically Anibal Aranda.

21 A I think that covers what she shared with
22 me and what I remember.

23 Q Prior to the incident with Anibal Aranda,
24 do you know how long she had been training with him
25 specifically?

EXHIBIT 12

COPY

1 UNITED STATES DISTRICT COURT
2 MIDDLE DISTRICT OF FLORIDA
3 ORLANDO DIVISION

4 CASE NO.: 6:22-cv-00615-PGB-LHP

5 KYLIE MCKENZIE,
6 Plaintiff,

7 vs.

8 UNITED STATES TENNIS
9 ASSOCIATION, INCORPORATED
10 and USTA PLAYER DEVELOPMENT,
11 INCORPORATED,

12 Defendants.
13 _____/

14 VIDEOTAPED DEPOSITION OF KEVIN MARKEY

15 Taken on behalf of: The Defendants

16 Date taken: July 26, 2023

17 Time: 9:40 a.m. - 2:16 p.m.

18 Location: 380 South Courtenay Parkway
19 Suite A
Merritt Island, Florida 32952

20 Reported before: Randi Ginsberg
21 stenographic court reporter
22 via audio-video conference

23 Diamond Reporting, Inc.
24 8421 Murray Court
Sanford, Florida 32771
25 407.810.0951 * dreporting@aol.com

1 A P P E A R A N C E S:

2

3 AMY JUDKINS, ESQUIRE

4 Normand Law, PLLC
5 3165 McCrory Place
6 Suite 175
7 Orlando, Florida 32803
8 amy.judkins@normandpllc.com
9 407.603.6031

10 On behalf of the Plaintiff

11

12

13 MEAGAN L. MARTIN, ESQUIRE

14 Baker & Hostetler, LLP
15 200 South Orange Avenue
16 Suite 2300
17 Orlando, Florida 32801
18 mmartin@bakerlaw.com
19 407.649.4000

20 On behalf of the Defendants

21

22 Also present for the Defendants: Staciellen
23 Stevenson Mischel, Associate General Counsel &
24 Deputy Chief Legal Officer, United States
25 Tennis Association

26

27

28 Also present: Erik Nelson, videographer

29

30

31

32

33

- - - -

C O N T E N T S

	PAGE
TESTIMONY OF KEVIN MARKEY	6
Direct examination by Ms. Martin	6
Cross-examination by Ms. Judkins	146
Redirect Examination by Ms. Martin	156
Certificate of Oath	161
Certificate of Reporter	162
Errata Page	163

S T I P U L A T I O N S

It is hereby stipulated and agreed by and
between counsel for the respective parties and the
deponent that the reading and signing of the
transcript be reserved.

- - - -

E X H I B I T S

(Defendants' Exhibit Nos. 1-9 marked for
identification. *Defendants' Exhibit No. 9
designated "confidential.")

DEFENDANTS'	DESCRIPTION	PAGE
No. 1	(Email chain, Bates stamped USTA 50 through 59)	67
No. 2	(Pro Coaching Agreement)	96
No. 3	(Email chain with attachment of Pro Management Agreement)	101
No. 4	(Screen shot)	111
No. 5	(Second Amendment to the Pro Management Agreement)	113
No. 6	(Second Amendment to the Pro Coaching Agreement)	116
No. 7	(Text messages, Bates stamped Plaintiff's 365 through 374)	122
No. 8	(Subpoena)	137
No. 9*	(Email from Kylie McKenzie dated February 17, 2019)	138

1 Q Are you aware of her social interactions
2 while she was in Florida at the National Campus?

3 A No.

4 Q Okay. Are you aware of any stressors on
5 her game that we haven't already discussed?

6 A No.

7 Q Were you aware of her having any pregnancy
8 scares while she lived in Florida?

9 A I am not.

10 Q Okay. Other than, I guess, the concerns
11 expressed regarding [REDACTED] have you --

12 A When you say "concern" --

13 Q I'm sorry. Your prior testimony regarding
14 [REDACTED] have there -- has Kylie experienced any
15 relationship problems that you're aware of since
16 2018, romantic or otherwise?

17 A The only thing that -- and I'm just barely
18 acquainted with, would be that I think sometimes her
19 interactions with other players with whom I think
20 she considered herself fairly close declined. And I
21 think Caroline Dolehide might be the best example.
22 I think they were closer at one stage and I think
23 approximately the time Caroline was seeing more
24 success professionally, my perception, and this is
25 nothing that Kylie ever said to me directly, but my