

May 17, 2017

**Written Testimony of U.S. Center for SafeSport by Shellie Pfohl  
for the Senate Commerce, Science and Transportation Committee**

## I. Introduction

The U.S. Center for SafeSport congratulates and thanks the Senate Commerce, Science and Transportation Committee for holding this hearing to address the issue of “Current Issues in American Sports: Protecting the Health and Safety of American Athletes.” A special thank you to Chairman John Thune for inviting SafeSport to testify.

The written testimony herein highlights the efforts of SafeSport to foster a national sports culture built on respect and free from abuse. SafeSport is the first of its kind: a national nonprofit dedicated to preserving the safety and well-being of athletes by preventing emotional, physical and sexual abuse in sports. This includes bullying, harassment, hazing and all other forms of misconduct and abuse.

## II. State of Play of Abuse with Athletes

The national discourse in the sports world to date has focused on two serious issues: concussions and doping. But there is another that demands our attention. Today, we need to discuss how to recognize, reduce and respond to emotional, physical and sexual abuse of athletes, regardless of age or competitive level.

Three out of four American families with school-aged children have at least one playing an organized sport -- that is over 45 million youth. All deserve to reap the benefits of participating in sports, including fitness, fun, social connections, character development and more.

But sports do not happen in a vacuum, they occur in communities across the country where statistics suggest one in five youth are bullied<sup>1</sup>, and one in ten will be sexually abused<sup>2</sup> before the age of 18. These are startling numbers and while we do not know what the data looks like among athletes specifically, we know that abuse is happening and that more must be done.

Sports afford participants a unique ability to learn respect, perseverance and teamwork while building self-esteem, confidence and social skills. Sports are more than a game or competition, sports build character. The sports community must at its core champion respect and protect all athletes from any form of abuse.

That is why ask for your support in authorizing the U.S. Center for SafeSport in S. 534 “Protecting Young Victims from Sexual Abuse Act of 2017.”

### III. Who We Are

Originally created by the United States Olympic Committee, SafeSport is now an independent 501(c)(3) nonprofit headquartered in Denver, Colorado. The organization is governed by a nine-member board of independent directors, including subject-matter experts in the areas of abuse prevention and response, ethics compliance and sports administration. It's supported financially through the USOC, NGBs and charitable donations.

### IV. What We Do

SafeSport is committed to creating and maintaining a culture where all persons who participate in sports programs and activities can work and learn together in an atmosphere free of all forms of emotional, physical and sexual misconduct. SafeSport believes when athletes are safe, they can achieve their full potential.

Prevention is at the heart of SafeSport's mission. SafeSport serves sports organizations across the nation by providing educational resources that instill positive behavior, build character and develop strong communities. Its programs help to

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<sup>1</sup> Stopbullying.gov

<sup>2</sup> Townsend/Rheingold Study (2013)

reinforce respect, safety and health in sports. SafeSport is working to help equip these sports organizations and, in turn, millions of athletes, parents and coaches, with tools to address issues of abuse before they occur.

For athletes at every level—from amateur to elite, community-based to professional—SafeSport’s approach to prevent emotional, physical and sexual abuse is designed to create a greater positive impact than any single sports organization can achieve alone.

Additionally, the USOC retained SafeSport to investigate all cases of sexual misconduct or abuse for its 47 National Governing Bodies (NGBs).

SafeSport's prevention efforts take shape in the form of two offices within the organization.

### **Education and Outreach Office**

The Education and Outreach Office administers programming to promote respect and prevent abuse; raise awareness of issues; and develops and distributes educational materials and resources. It serves all sports organizations, athletes, parents and coaches.

SafeSport's current training has been taught to more than 300,000 coaches in the United States.

SafeSport is working on a resource guide that organizations can use to evaluate their own policies, procedures, tools and training. SafeSport's goal is to ensure that every sports organization in the United States has access to the right kinds of policies and procedures, tools and training materials to keep their athletes safe, regardless of geography, socioeconomic status or competition level.

While SafeSport addresses the well-being of all athletes, its top priority is on its most vulnerable participants, children. And while best practices and training are essential, awareness of these issues is an important first step, an additional accent on the

importance of this hearing. Our awareness campaigns will be supported by "SafeSport Champions", a program that will draw on the popularity of certain athletes and coaches to bring attention to these important issues.

### **The Response and Resolution Office**

The Response and Resolution Office investigates and resolves reports of sexual misconduct for the U.S. Olympic and Paralympic Movements. Its neutral and independent investigators and arbitrators review reports, and gather and analyze data, to improve awareness and prevention programs. Currently, SafeSport has 35 active cases in 14 different sports.

SafeSport's reporting process is available to anyone wanting to report abuse within the Olympic and Paralympic NGBs. SafeSport immediately reports allegations of child abuse to the appropriate law enforcement agency. If a covered individual violates the SafeSport Code<sup>3</sup>, that person can be sanctioned, up to and including a lifetime ban enforced across the Olympic and Paralympic Movements.

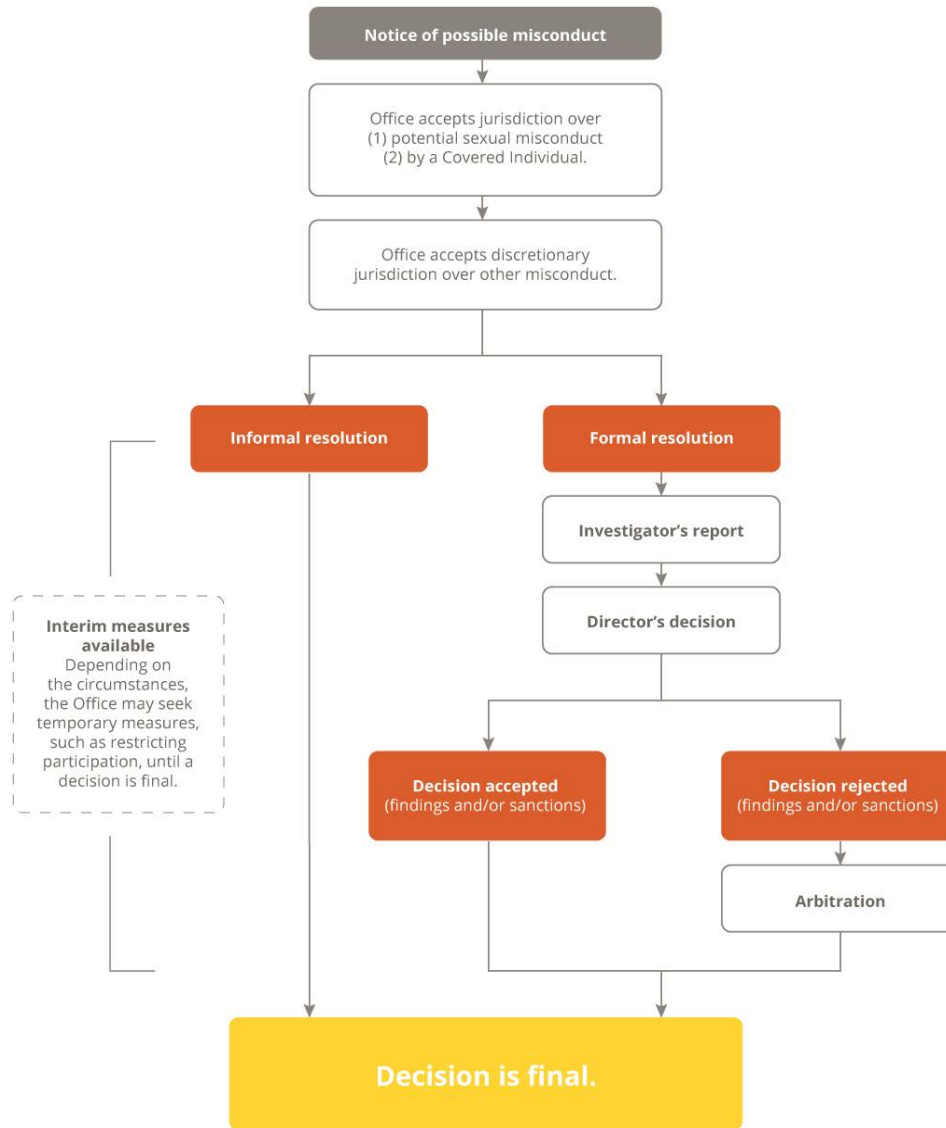
Three policies govern the resolution process for the U.S. Olympic and Paralympic Movement's 47 sport's National Governing Bodies:

- [\*SafeSport Code for the U.S. Olympic and Paralympic Movement\*](#)  
The Code applies to all Covered Individuals and identifies and defines prohibited conduct.
- [\*SafeSport Practices and Procedures for the U.S. Olympic and Paralympic Movement\*](#)  
These Procedures set forth the informal and formal resolution process the Office uses to resolve possible violations of the *Code* within the Office's authority.
- [\*Supplementary Rules for U.S. Olympic and Paralympic Movement SafeSport Arbitrations\*](#)  
The Rules govern the arbitration process (when applicable).

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<sup>3</sup> SafeSport Code full copy in Appendix

Below is a graphic that illustrates how the Response & Resolution Office works to investigate and resolve possible violations of the *SafeSport Code*. This chart is not meant to represent every aspect of the process.



V. Appendix

SafeSport Code <https://77media.blob.core.windows.net/uscscs/1488581091937.2017-03-03---safesport-code---final.pdf>



# **SAFESPORT CODE**

**FOR THE U.S. OLYMPIC AND  
PARALYMPIC MOVEMENT**



**SAFESPORT CODE FOR THE U.S. OLYMPIC AND  
PARALYMPIC MOVEMENT**

**TABLE OF CONTENTS**

I. INTRODUCTION .....	1	F. Covered Minor .....	3
A. Application.....	1	G. Criminal Disposition .....	3
B. Online, email, cellular or other electronic media or digital conduct .....	1	H. Emotional Misconduct .....	3
C. Age, gender and competitive level irrelevant.....	1	1. Verbal Acts .....	3
D. Other remedies .....	1	2. Physical Acts.....	3
II. DEFINITIONS .....	1	3. Acts that Deny Attention or Support.....	3
A. Athlete.....	1	4. Exclusions .....	4
B. Bullying Behavior .....	1	5. Criminal conduct.....	4
1. Forms .....	2	I. Harassment .....	4
2. Rude, mean and conflict—distinguished	2	1. Forms .....	4
3. Criminal conduct.....	2	J. Hazing .....	5
C. Consent.....	2	1. Examples.....	5
1. Inability to Consent.....	2	2. Criminal acts .....	5
2. Inability to Refuse.....	3	K. Intimate Relationship .....	5
D. Covered Adult .....	3	L. Local Affiliated Organization (LAO).....	5
E. Covered Individual .....	3	M. Minor .....	5
		N. National Governing Body (NGB) .....	5
		O. Non-athlete Participant.....	6
		P. Physical Misconduct .....	6
		1. Examples.....	6
		2. Criminal conduct.....	6
		3. Exclusion.....	6
		Q. Position of Power .....	6
		1. Examples.....	6
		R. Power Imbalance .....	6

S. Reporting Party.....	7	1. Emotional and Physical Misconduct.....	10
T. Responding Party.....	7	2. Proactive policies.....	10
U. SafeSport <i>Code</i> Violation (Violation).....	7	C. Retaliation .....	10
V. Sexual Conduct .....	7	1. Sexual misconduct .....	10
1. Contact behaviors of a sexual nature .....	7	2. Other misconduct.....	10
2. Non-contact behaviors of a sexual nature.....	7		
W. Third-party Reporter .....	8		
X. Third-party Reports.....	8		
III. PROHIBITED CONDUCT .....	8		
A. Sexual misconduct .....	8		
1. Generally.....	8		
2. Sexual misconduct involving Minors .....	8		
3. Child sexual abuse .....	8		
4. Criminal Disposition.....	8		
5. Other .....	8		
B. Other misconduct .....	9		
1. Emotional or Physical Misconduct .....	9		
2. Proactive policies.....	9		
C. Retaliation .....	9		
IV. ENFORCEMENT AUTHORITY.....	9		
A. Exclusive authority-sexual misconduct.....	9		
B. Discretionary authority.....	9		
V. REPORTING .....	10		
A. Sexual misconduct .....	10		
B. Other misconduct .....	10		



# SAFESPORT CODE FOR THE U.S. OLYMPIC AND PARALYMPIC MOVEMENT

*Effective March 3, 2017*

The U.S. Olympic and Paralympic Movement is committed to creating and maintaining a sport community where all persons who participate in sport programs and activities can work and learn together in an atmosphere free of all forms of emotional, physical and sexual misconduct. The U.S. Center for SafeSport's Response and Resolution Office (Office) has issued this *SafeSport Code for the U.S. Olympic and Paralympic Movement (Code)* and its appendices (collectively, *Code*) pursuant to the Center's authority under the United States Olympic Committee's (USOC) Bylaws.

Individuals within the Office's jurisdiction are responsible for knowing the information, policies and procedures outlined in this *Code* and its related policies. The Office reserves the right to make changes to this document as necessary. Once posted online, changes are effective immediately unless otherwise noted.

## I. INTRODUCTION

### A. Application

The *Code* applies to Covered Individuals, as defined below.

### B. Online, email, cellular or other electronic media or digital conduct

The *Code* may be applied to behavior conducted online or distributed electronically using email, text messages or any other electronic medium. This includes without limitation blogs, web postings, chats and social networking sites.

### C. Age and competitive level irrelevant

Except as specifically noted, the *Code* applies without respect to age or competitive level.

### D. Other remedies

1. The *Code* does not replace:

- a. the Ted Stevens Olympic and Amateur Sports Act;
- b. the employment practices of any relevant organization; or
- c. applicable federal or state law.

2. The *Code* does not extend or restrict a person's right to file charges or claims with any other agency, law enforcement or court. Individuals are encouraged to ensure their rights have not expired through these other avenues.

## II. DEFINITIONS

The following terms, as used in the *Code* and Appendices A and B, shall have the following meaning:

### A. Athlete

An individual recognized as an athlete by an NGB under its bylaws, rules, regulations, guidelines or other governing documents.

### B. Bullying Behavior

Repeated and/or severe (a) aggressive behavior (b) among Minors,<sup>1</sup> (c) that is intended or likely to hurt, control or diminish another person emotionally, physically or sexually.

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<sup>1</sup> Bullying-like behaviors among adults are addressed under other forms of misconduct such as Hazing and Harassment.

## **1. Forms**

### **a. Physical**

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

### **b. Verbal**

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

### **c. Social, including cyberbullying**

Using rumors or false statements about someone to diminish that person's reputation; using electronic communications, social media or other technology to harass, frighten, intimidate or humiliate someone; socially excluding someone and asking others to do the same.

### **d. Sexual**

Teasing, ridiculing or taunting based on gender or sexual orientation (real or implied), gender traits or behavior (e.g., taunting someone for being too effeminate), or teasing someone about their looks or behavior as it relates to sexual attractiveness.

## **2. Rude, mean and conflict—distinguished**

Conduct may not rise to the level of Bullying Behavior if it is rude (inadvertently saying or doing something hurtful), mean (purposefully saying or doing something hurtful, but not as part of a pattern of behavior), or arising from conflict or struggle between persons, absent a Power Imbalance, who perceive they have incompatible goals.

## **3. Criminal conduct**

Bullying Behavior includes any conduct described as bullying under federal or state law.

## **C. Consent**

Freely given agreement by all people involved. As it relates to Sexual Conduct, Consent requires words or actions by a person who is legally and functionally competent to give informed permission for specific sexual activity. Consent to any one form of sexual activity does not automatically imply Consent for any other forms of sexual activity. Previous relationships or prior consent does not imply consent to future sexual activity. Once given, Consent can be withdrawn through clear communication.

Consent does not exist if a person does not give Consent, or an Inability to Consent or Inability to Refuse exists.

### **1. Inability to Consent**

An Inability to Consent exists when Consent cannot be given because the person (a) lacks legal capacity or (b) is Incapacitated.

#### **a. Incapacitated**

A state where a person cannot make a rational, reasonable decision because they lack the capacity to give informed consent (i.e., to understand the “who, what, when, where, why or how” of the sexual interaction).

A person may be Incapacitated because of a developmental or mental disability, illness, injury, alcohol or other drug use (voluntary or involuntary), blackout, sleep, unconsciousness or involuntary physical restraint.

## **2. Inability to Refuse**

An Inability to Refuse exists when effective Consent cannot be given because of the use of Coercion, Force, Intimidation, or creating or misusing a Power Imbalance.

### **a. Coercion**

Unreasonable pressure to engage in Sexual Conduct. Whether pressure is unreasonable depends on four factors, considered together: (a) frequency, (b) intensity, (c) isolation and (d) duration.

### **b. Force**

The use or threat of physical force that overcomes free will or resistance.

### **c. Intimidation**

Implied threats or acts that reasonably cause a fear of harm in another.

## **D. Covered Adult**

A Covered Individual who is 18 years of age or older.

## **E. Covered Individual**

Any individual who: (a) currently is, or was at the time of a possible violation of the *Code*, within the governance or disciplinary jurisdiction of an NGB or who is seeking to be within the governance or disciplinary jurisdiction of an NGB (e.g., through application for membership), (b) is an Athlete or Non-athlete Participant that an NGB or the USOC formally authorizes, approves or appoints to a position of authority over Athletes or to have frequent contact with Athletes or (c) an NGB identifies as being within the Office's jurisdiction.

## **F. Covered Minor**

A Covered Individual who is under the age of 18.

## **G. Criminal Disposition**

Any disposition of a criminal proceeding, other than an adjudication of not guilty, including an adjudication of guilt or admission to a criminal violation; a plea to a lesser included offense; a plea of no contest; or the disposition of the proceeding through a diversionary program, deferred adjudication, disposition of supervision, conditional dismissal, or similar arrangement.

## **H. Emotional Misconduct**

Repeated and/or severe non-contact behavior involving (a) Verbal Acts, (b) Physical Acts and/or (c) Acts that Deny Attention or Support. Emotional Misconduct is determined by the objective behaviors, not whether harm is intended or results from the behavior.

### **1. Verbal Acts**

Verbal assault that repeatedly attacks someone personally (e.g., calling a person worthless, fat or disgusting; taunting a person for being too effeminate); repeatedly and excessively yelling at a particular athlete or other participant in a manner that serves no productive training or motivational purpose.

### **2. Physical Acts**

Physically aggressive behaviors, such as throwing sport equipment, water bottles or chairs at or in the presence of others; punching walls, windows or other objects.

### **3. Acts that Deny Attention or Support**

Ignoring or isolating a person for extended periods of time, including routinely or arbitrarily excluding a participant from practice.

#### **4. Exclusions**

Emotional Misconduct does not include professionally accepted and age-appropriate coaching methods for skill and performance enhancement, physical conditioning, team building or appropriate discipline.

#### **5. Criminal conduct**

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

### **I. Harassment**

Repeated and/or severe conduct that (a) causes fear, humiliation or annoyance, (b) offends or degrades, (c) creates a hostile environment, or (d) reflects discriminatory bias in an attempt to establish dominance, superiority or power over an individual athlete or group based on age, gender, sexual orientation, gender expression, gender identity, race, ethnicity, culture, religion, national origin, or mental or physical disability; or (e) any act or conduct described as harassment under federal or state law. Whether conduct is harassing depends on the totality of the circumstances, including the nature, frequency, intensity, location, context and duration of the behavior.

#### **1. Forms**

Harassment, which may be a form of Emotional, Physical or Sexual Misconduct, includes but is not limited to:

##### **a. Discriminatory Harassment**

Conduct with the design or effect of establishing dominance, superiority or power over an individual or group based on age, sex, race, color, ethnicity, culture, national origin, religion, sexual orientation, gender expression, gender identity, or mental or physical disability.

#### **b. Stalking**

Conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to 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/or other electronic contact.

##### **i. Examples**

Stalking behaviors include without limitation: following a person; appearing at a person's home, class, work or practice; frequent phone calls, emails, or text messages; continuing to contact a person after receiving requests to stop; leaving unwanted written messages, objects or gifts; vandalizing a person's property; threatening, intimidating or intrusive behavior; and violating a lawful order preventing contact with a person.

#### **c. Sexual Harassment**

Conduct by a Covered Adult toward an Athlete or other non-employee, Non-athlete Participant that includes (a) sexual advances, requests for sexual favors, or other verbal or physical behaviors of a sexual nature; or (b) is sufficiently severe, persistent or pervasive and objectively offensive that it negatively affects an individual's performance.

## **J. Hazing**

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. Purported Consent by the person subject to Hazing is not a defense, regardless of the person's perceived willingness to cooperate or participate.

### **1. Examples**

Examples of Hazing include:

#### **a. Contact acts**

Tying, taping or otherwise physically restraining another person; beating, paddling or other forms of physical assault.

#### **b. Non-contact acts**

Requiring or forcing the consumption of alcohol, illegal drugs or other substances in an effort to elicit a negative physiological response, including participation in binge drinking and drinking games; personal servitude; requiring social actions (e.g., wearing inappropriate or provocative clothing) or public displays (e.g., public nudity) that are illegal or meant to draw ridicule; excessive training requirements demanded of only particular individuals on a team that serve no reasonable or productive training purpose; sleep deprivation; otherwise unnecessary schedule disruptions; withholding of water and/or food; restrictions on personal hygiene.

#### **c. Sexualized acts**

Actual or simulated Sexual Conduct of any nature.

## **2. Criminal acts**

Any act or conduct that constitutes hazing under applicable federal or state law.

## **K. Intimate Relationship**

A close personal relationship that exists independently and outside of the sport relationship. Whether a relationship is intimate is based on the totality of the circumstances, including: regular contact and/or interactions outside of or unrelated to the sport relationship (electronically or in person), the parties' emotional connectedness, the exchange of gifts, ongoing physical contact and/or Sexual Conduct, identity as a couple, the sharing of sensitive personal information, and/or knowledge about each other's lives outside the sport relationship.

## **L. Local Affiliated Organization (LAO)**

A regional, state or local club or organization that is directly affiliated with an NGB, such as a regional affiliate or a local club, or that is affiliated with an NGB by virtue of its direct affiliation with a regional affiliate or organization.

## **M. Minor**

An individual under the age of eighteen.

## **N. National Governing Body (NGB)**

A U.S. Olympic National Governing Body, Pan American Sport Organization, or 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. When the USOC manages and governs a Paralympic sport, the USOC falls within this definition.

**O. Non-athlete Participant**

Any coach, trainer, team staff, medical or paramedical personnel, administrator, official, or other athlete support personnel, employee or volunteer who participates.

**P. Physical Misconduct**

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

**1. Examples**

Examples of physical misconduct may include, without limitation:

**a. Contact violations**

Punching, beating, biting, striking, choking or slapping another; intentionally hitting another with objects, such as sporting equipment; 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.

**b. 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; providing alcohol to a person under the U.S. legal drinking age; providing illegal drugs or non-prescribed medications to another.

**2. Criminal conduct**

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

**3. Exclusion**

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

**Q. Position of Power**

When one person has direct supervisory, evaluative or other authority over another.

**1. Examples**

A person who may be in a Position of Power includes someone such as a coach, boss, employer or medical personnel.

**R. Power Imbalance**

A Power Imbalance may exist:

1. Where one person is in a Position of Power such that, based on the totality of the circumstances, there is a Power Imbalance.
  - a. Whether someone occupies a Position of Power such that there is a Power Imbalance depends on several factors, including: the nature and extent of the supervisory, evaluative or other authority over the person; the actual relationship between the parties; the parties' respective roles; the nature and duration

of the relationship; the age of the adult; the age of the people involved.

- b. Once a coach-Athlete relationship is established, a Power Imbalance is presumed to exist throughout the coach-Athlete relationship (regardless of age) and is presumed to continue for Minor Athletes after the coach-Athlete relationship terminates and the Athlete reaches 20 years of age. A Power Imbalance may exist, but is not presumed, where an Intimate Relationship existed before the sport relationship (e.g., a relationship between two spouses or life partners that preceded the sport relationship).

- 2. Based on the totality of the circumstances, including whether there is an aggressor, and/or a significant disparity in age, size, strength or mental capacity.

#### **S. Reporting Party**

In proceedings under the *SafeSport Practices and Procedures for the U.S. Olympic and Paralympic Movement*, the person alleging a violation of the *Code*.

#### **T. Responding Party**

In proceedings under the *SafeSport Practices and Procedures for the U.S. Olympic and Paralympic Movement*, the person who is alleged to have violated the *Code*.

#### **U. SafeSport Code Violation (Violation)**

Conduct by a Covered Individual that violates (a) this *SafeSport Code for the U.S. Olympic and Paralympic Movement*; (b) any previous LAO, NGB or USOC standards concerning the type of conduct prohibited in this *Code*; or (c) other standards accepted at the time of conduct analogous to prohibited conduct in this *Code*.

#### **V. Sexual Conduct**

Contact and non-contact behaviors of a sexual nature.

#### **1. Contact behaviors of a sexual nature**

Any intentional bodily contact of a sexual nature, however slight, whether clothed or unclothed, of a person's intimate body parts with any object or body part up to and including a completed or attempted penetration.

##### **a. Sexual Contact**

Sexual contact is (a) any intentional bodily contact, however slight, whether clothed or unclothed, of a person's intimate body parts (primarily genital area, groin, inner thigh, buttock or breast) with any object or body part and/or (b) any other intentional bodily contact in a sexual manner.

##### **b. Sexual Intercourse**

Sexual intercourse is (a) a completed or attempted penetration of the vulva or anus by a penis, object, tongue or finger; and/or (b) contact between the mouth and the penis, vulva or anus.

#### **2. Non-contact behaviors of a sexual nature**

Non-contact behaviors of a sexual nature include (a) exposure to sexual situations (e.g., pornography, voyeurism, exhibitionism); (b) sexual comments, sexually explicit photographs; or (c) filming, taking or disseminating photographs of a sexual nature.

##### **a. Exploitation**

Non-contact behavior of a sexual nature includes Exploitation (taking sexual advantage of another to benefit or gratify one's self or any person other than the person or persons being exploited). Exploitation includes, but is not limited to (a) voyeurism or spying on persons engaged in intimate or sexual behavior, (b) exposing genitals or inducing another

person to expose his or her genitals without Consent, (c) 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, or (d) disseminating or threatening to disseminate pictures, video recordings or audio recordings of another person in a sexual act or any other private activity.

#### **W. Third-party Reporter**

A person who reports or discloses a possible violation of the *Code*, if not the Reporting Party.

#### **X. Third-party Reports**

Reports or disclosures of a possible violation of the *Code* brought by a person other than a Reporting Party.

### **III. PROHIBITED CONDUCT**

#### **A. Sexual misconduct**

##### **1. Generally**

Sexual misconduct offenses include:

- a. Sexual Conduct (or attempts to commit the same), without Consent.
- b. Sexual Conduct (or attempts to commit the same), where there is a Power Imbalance, regardless of purported Consent.
- c. Sexual Harassment.
- d. An Intimate Relationship involving a person in a Position of Power where a Power Imbalance exists.

##### **2. Sexual misconduct involving Minors**

Regardless of any purported Consent, a sexual misconduct offense involving a Minor includes:

- a. Sexual Conduct (or attempt to commit the same) between a Covered Adult and a Minor where the age difference is three or more years.
- b. Sexual Conduct (or attempt to commit the same) between a Covered Adult and a Minor where the age difference is less than three years, but a Power Imbalance exists.
- c. An Intimate Relationship (or attempt to establish the same) between a Covered Adult and a Minor where the age difference is three or more years and a Power Imbalance exists.
- d. Sexual Conduct between a Covered Minor and another Minor if: (1) the age difference is three or more years, or (2) there is a Power Imbalance based on the totality of the circumstances.

##### **3. Child sexual abuse**

A Covered Individual shall not engage in any behavior that constitutes child sexual abuse as defined by federal or applicable state law.

##### **4. Criminal Disposition**

It is a violation of the *Code* for a Covered Individual to be convicted of or subject to a Criminal Disposition for a crime involving (a) any form of sexual misconduct or (b) a Minor.

##### **5. Other**

A Covered Individual shall not engage in any other form of sexual misconduct, including Bullying Behaviors or Hazing of a sexual nature.



## **B. Other misconduct**

### **1. Emotional or Physical Misconduct**

A Covered Individual shall not engage in Emotional or Physical Misconduct. Emotional or Physical Misconduct may include Bullying Behaviors, Hazing or Harassment.

### **2. Proactive policies**

An LAO, NGB or the USOC may adopt proactive policies that apply to Covered Individuals and set standards for professional boundaries, minimize the appearance of impropriety and have the effect of preventing boundary violations and prohibiting grooming tactics.<sup>2</sup> Tailored to a specific sport, context, legal structure or constituency, such policies may address overnight travel rules (e.g., preventing unrelated Covered Adults and Minors from sharing rooms under specified circumstances), massages and rubdowns, social media and electronic communications, photography, locker rooms, one-on-one meetings and gifting. If a Covered Individual violates a proactive policy established by the Covered Individual's LAO, NGB or the USOC, it shall also be a violation of the *Code*.

## **C. Retaliation**

Retaliation is any adverse action taken by a Covered Individual against a person participating in the Office's proceedings. Retaliation by a Covered Individual against a person for making an allegation, supporting a Reporting

Party or providing information relevant to an allegation is a serious violation of the *Code*.<sup>3</sup>

## **IV. ENFORCEMENT AUTHORITY**

### **A. Exclusive authority—sexual misconduct**

The Office has the exclusive authority to investigate and resolve conduct involving (a) sexual misconduct; and (b) prohibited conduct under the *Code* that is reasonably related to the underlying allegation of sexual misconduct. Exclusive authority means (a) only the Office will investigate and manage any related arbitration involving sexual misconduct; and (b) neither the NGB nor the USOC will conduct its own investigation or arbitration with respect to possible sexual misconduct, except as otherwise provided. *See* Appendices A and B.

### **B. Discretionary authority**

On the written request of the NGB or USOC, the Office may, in its discretion, accept authority over alleged violations of any prohibited conduct under the *Code*.

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<sup>2</sup>“Grooming” describes the process whereby a person engages in a series or pattern of behaviors with a goal of engaging in sexual misconduct. Grooming is initiated when a person seeks out a vulnerable minor. Once selected, offenders will then earn the minor's trust, and potentially the trust of the minor's family. After the offender has engaged the minor in sexually inappropriate behavior, the offender seeks to maintain control over him/her. Grooming occurs through direct, in-person and/or online contact.

<sup>3</sup> Because the Office's authority is limited to direct or indirect actions by a Covered Individual, the power to address retaliatory discrimination or harassment is likewise limited. The Office does not have any control or authority over the conduct of others outside its jurisdiction and does not have any control or authority over the employment status of Covered Individuals.

## V. REPORTING

### A. Sexual misconduct

1. Conduct by a Covered Individual that could constitute sexual misconduct should be reported to the Office as set forth in the *SafeSport Practices and Procedures for the U.S. Olympic and Paralympic Movement* (Appendix A).
2. **If an allegation involves child abuse or neglect, the matter should also be referred to the appropriate legal authorities.**

### B. Other misconduct

#### 1. Emotional and Physical Misconduct

Conduct by a Covered Individual that could constitute Emotional or Physical Misconduct under the *Code*, including Bullying Behaviors, Hazing and Harassment, should be reported to the relevant, promulgating organization.

#### 2. Proactive policies

Conduct by a Covered Individual that could violate a proactive policy should be reported to the relevant, promulgating organization. If the relevant, promulgating organization is an LAO, the LAO should also report a possible violation of a proactive policy to its NGB. The NGB, in turn, should report the matter to the Office.

### C. Retaliation

#### 1. Sexual misconduct

Retaliation related to an allegation of sexual misconduct should be reported to the Office.

#### 2. Other misconduct

Retaliation related to an allegation of other misconduct—Emotional Misconduct, Physical Misconduct, Bullying Behaviors, Hazing, Harassment or

proactive policies—should be reported to the relevant, promulgating organization.

*Appendix A*



**SAFESPORT PRACTICES AND PROCEDURES FOR THE  
U.S. OLYMPIC AND PARALYMPIC MOVEMENT**

**TABLE OF CONTENTS**

I. APPLICATION AND STANDARDS .....	1
A. Application.....	1
B. Authority .....	1
1. Exclusive authority .....	1
2. Discretionary authority .....	1
C. Rules.....	1
D. Standard of proof .....	1
II. REPORTING, CONFIDENTIALITY AND PRIVACY .	1
A. Reporting.....	1
1. Anyone may report .....	1
2. Mandatory reporters.....	2
3. Ongoing obligation .....	2
4. Reports concerning child abuse or neglect—separate obligation to report to legal authorities .....	3
5. No statute of limitations.....	3
6. Anonymous reports .....	3
B. Confidentiality and privacy .....	3
1. Confidentiality for a Reporting Party.....	3
2. Reporting Party request for confidentiality .....	4
3. Privacy .....	4
4. Parental notification .....	4
III. RESOLUTION PROCEDURES.....	4
A. Participation .....	4
1. Advisors .....	4
2. Participation of Reporting Party & Responding Party .....	5
B. Preliminary inquiry.....	5
1. Initiating proceedings.....	5
2. Interim measures.....	5
C. Informal resolution .....	5
D. Formal resolution—full investigation .....	6
1. Steps.....	6
2. Closing the investigation.....	6
3. Investigative report .....	6
4. Director of Investigation’s Decision .....	6
5. Notice of Director’s Decision .....	7
6. Options.....	7
7. Arbitration.....	8
8. Reopening a case.....	8

IV. MISCONDUCT RELATED TO THE OFFICE'S PROCEEDINGS .....	8
A. Abuse of process .....	8
B. Failure to report.....	8
C. Intentionally making a false report.....	8
V. INTERIM MEASURES .....	8
A. Notice .....	9
B. Rules.....	9
C. Scope .....	9
D. Measures .....	9
VI. SANCTIONING GUIDELINES .....	9
A. Possible sanctions .....	9
B. Considerations.....	9
C. Reciprocity .....	9
VII. RELATED PROCEEDINGS.....	10
A. Effect of criminal or civil proceedings.....	10
B. Effect of criminal conviction.....	10
VIII. USE OF MATERIALS .....	10

**SAFESPORT PRACTICES AND PROCEDURES FOR THE  
U.S. OLYMPIC AND PARALYMPIC MOVEMENT**

*Effective as of March 3, 2017*

**I. APPLICATION AND STANDARDS**

**A. Application**

The U.S. Center for SafeSport Response and Resolution Office (Office) uses the *SafeSport Practices and Procedures for the U.S. Olympic and Paralympic Movement (Procedures)* to determine whether a Covered Individual violated the *SafeSport Code for the U.S. Olympic and Paralympic Movement (Code)*.

**B. Authority**

**1. Exclusive authority**

The Office has exclusive authority over (a) actual or suspected sexual misconduct by a Covered Individual; and (b) misconduct that is reasonably related to an underlying allegation of sexual misconduct, as set forth in the *Code*. Exclusive authority means that (a) only the Office will investigate and manage any related hearings involving sexual misconduct and (b) neither the NGB nor USOC will conduct its own investigation or arbitration with respect to possible sexual misconduct, except as otherwise provided.

**a. No statute of limitations**

Neither criminal nor civil statutes of limitations apply to the *Code* or these *Procedures*.

**b. Limit—individuals and non-employment matters**

**i.** The Office’s authority extends only to the conduct of *individuals*—Covered Individuals specifically. It does not regulate, investigate or

audit LAO, NGB or USOC organizational practices.

**ii.** The Office’s exercise of any authority under its resolution proceedings are independent of any employment decisions made by an LAO, NGB or the USOC, which have sole responsibility for any employment action.

**2. Discretionary authority**

On the written request of an NGB or the USOC, the Office may, in its discretion, accept jurisdiction over any form of misconduct as set forth in the *Code*.

**C. Rules**

In resolving allegations of misconduct, the Office applies the standards and rules in effect at the time of the alleged violation. If a report is made regarding conduct that occurred before the effective date of the *Code*, the Office will apply the relevant NGB’s rules and regulations and/or other standards applicable at the time of the alleged conduct.

**D. Standard of proof**

The Office uses the preponderance of the evidence standard to determine whether a Covered Individual violated the *Code*.

**II. REPORTING, CONFIDENTIALITY AND PRIVACY**

**A. Reporting**

**1. Anyone may report**

Anyone who becomes aware of possible sexual misconduct under the *Code* by a Covered Individual may report to the Office and is encouraged to do so.

## 2. Mandatory reporters

### a. Covered Adults

#### i. Sexual misconduct

Covered Adults *must* report to the Office (conduct of which they become aware that could constitute (a) sexual misconduct, (b) misconduct that is reasonably related to the underlying allegation of sexual misconduct and (c) retaliation related to an allegation of sexual misconduct:

- Telephone: 720-524-5640
- Online: <https://safesport.org/response-resolution/report>. Online reports are accepted 24 hours a day, 7 days a week.

#### • Regular mail:

U.S. Center for SafeSport  
c/o Response and Resolution Office  
1385 South Colorado Boulevard, Suite A-706  
Denver, Colorado 80222

#### ii. Proactive policies

Conduct by a Covered Individual that could violate a proactive policy should be reported to the relevant, promulgating organization. If the relevant, promulgating organization is an LAO, the LAO must report the matter to its NGB. The NGB, in turn, should report the possible violation to the Office.

### b. No assessment of credibility or validity

The obligation to report is broader than reporting the criminal arrest of a Covered Individual; it requires reporting to the Office any conduct that comes to the Covered Adult's attention which, if true, would

violate the *Code*. Questions about whether conduct triggers a reporting obligation should be directed to the Office.

*Individuals should not investigate, or attempt to evaluate the credibility or validity of allegations involving sexual misconduct, as a condition of reporting to the Office.*

### c. Initial disclosure to LAO, NGB or the USOC

If the possibility of sexual misconduct under the *Code* is first disclosed to a Covered Adult at an LAO, NGB or the USOC, that Covered Adult *must* promptly report the possibility of sexual misconduct, in writing, to the Office.

### d. Identity of Third-party Reporter and Reporting Party

The Office will not identify or use the name of a Third-party Reporter. Nor will it publicly release a Reporting Party's identifying information.

## 3. Ongoing obligation

a. The obligation to report is an ongoing one and is not satisfied simply by making an initial report. The obligation includes reporting, on a timely basis, all information about which a Covered Adult becomes aware.

b. If a Covered Adult learns additional information, including information regarding the nature of an incident, the identity of witnesses, statements regarding the incident (including statements by the Reporting Party, Responding Party or a Third-party Reporter), or the existence of evidentiary material (including any documents, electronic communications, emails, text messages, medical reports, photographs, audio or video recordings, or

social medial activity), it must be reported promptly to the Office.

- c. The ongoing obligation does not require, and persons should not attempt to conduct, an investigation into possible sexual misconduct. The Office, however, recognizes the potential need for an organization to gather sufficient facts to ensure the safety of its constituents that may be impacted by the alleged misconduct.

#### **4. Reports concerning child abuse or neglect—separate obligation to report to legal authorities**

A report of child abuse or neglect to the Office as required under this policy *does not* satisfy any separate obligation an individual or organization may have under federal or applicable state law to report known or suspected child abuse or neglect.

- a. Covered Adults must report suspicions or allegations of child abuse or neglect to both the Office and appropriate legal authorities. If an allegation reported to the Office involves child abuse or neglect, the Office will also comply with all federal or state reporting requirements.
- b. *No one should investigate suspicions or allegations of child abuse or neglect or attempt to evaluate the credibility or validity of allegations, as a condition of reporting to the appropriate legal authorities.* For state-by-state reporting information, visit <https://www.childwelfare.gov/topics/responding/reporting/>.

#### **5. No statute of limitations**

Civil or criminal statutes of limitations do not affect or negate the obligation of a Covered Adult to report possible sexual misconduct to the Office under the *Code*

and should be reported to the Office, regardless of when it occurred.

#### **6. Anonymous reports**

Reports may be made to the Office anonymously. Anonymity means that the identity of the individual who makes the report is not known to the Office. It does **not** mean that the information provided will be protected.

However, an anonymous report may limit the Office’s ability to investigate and respond to a complaint. And, if a Covered Adult reports anonymously, it may not be possible for the Office to verify that mandatory reporting obligations have been satisfied. *Consequently, the Office strongly discourages Covered Adults from reporting anonymously.*

### **B. Confidentiality and privacy**

#### **1. Confidentiality for a Reporting Party**

If a Reporting Party would like the details of an incident to be kept confidential, the Reporting Party may speak with the USOC’s Athlete Ombudsman’s Office.

The USOC Athlete Ombudsman provides independent, cost-free advice to athletes regarding the opportunity to participate in protected competition, and the various policies and procedures associated with participating in sport at an elite level, including SafeSport issues. Confidentiality parameters will be discussed at the outset of any communication and may be limited by mandatory reporting requirements, including cases of immediate threat or danger, or abuse of a Minor.

The Athlete Ombudsman can be reached by phone: 1-800-ATHLETE, 719-866-5000, or via email: [athlete.ombudsman@usoc.org](mailto:athlete.ombudsman@usoc.org). For more information, visit [www.athleteombudsman.org](http://www.athleteombudsman.org).

## **2. Reporting Party request for confidentiality**

If the Office receives notice of possible sexual misconduct, but a Reporting Party does not wish for their name or identity to be shared, does not wish for an investigation to take place or does not want a formal resolution to be pursued, the Reporting Party may make such a request to the Office, which will evaluate the request.

- a. In cases where a Reporting Party requests confidentiality and the circumstances allow the Office to honor that request, the Office will not pursue formal action.
- b. In cases indicating pattern, predation, threat, use of weapons and/or violence, the Office will likely be unable to honor a request for confidentiality.

## **3. Privacy**

Information will be shared only as necessary with investigators, witnesses and the Responding Party. It will be necessary for the Office to (a) notify the NGB of an allegation involving a Covered Individual from that NGB, (b) if the Office seeks an interim measure, (c) if the Office proceeds to a full investigation, and (d) any final decision regarding whether a violation occurred and sanctions, if any. But the Office will not disclose the identity of a Reporting Party to the NGB unless necessary to the case.

## **4. Parental notification**

The Office reserves the right to notify parents/guardians of Reporting Parties regarding any health or safety risk.

# **III. RESOLUTION PROCEDURES**

Proceedings may be conducted by the Office and/or its designees. The timing and scope of the proceedings will be

based upon the particular circumstances of the matter at issue. While applying the *Procedures* consistently in similar situations is a priority, they are flexible and will not be applied the same way in every situation. The Office reserves the right to modify its processes as it deems necessary.

Absent compelling circumstances, cases involving more than one Reporting Party and/or more than one Responding Party will be treated as a single matter throughout resolution proceedings, including arbitration, if any.

## **A. Participation**

### **1. Advisors**

#### **a. Right to an advisor**

The Reporting Party and Responding Party are entitled to an advisor of their choosing to guide and accompany them throughout proceedings. The advisor may be a friend, mentor, family member, attorney or any other supporter a party chooses to advise them who is both eligible and available. People who may be called as witnesses may not serve as an advisor.

Each party is entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews and hearings. An advisor should help their advisee prepare for each meeting, and is expected to advise ethically, with integrity and in good faith.

#### **b. Rules**

Each advisor is subject to the same rules, whether or not the advisor is an attorney:

- i. An advisor may not present on behalf of their advisee in a meeting, interview or hearing and



should request or wait for a break in the proceeding if the advisor wishes to interact with Office officials.

- ii. An advisor is expected to refrain from interference with the Office's proceedings and may be asked to leave any meeting if an Office official considers the advisor to be disruptive or otherwise failing to respect the limits of the advisor role.
- iii. No audio or video recording of any kind is permitted during meetings with Office officials other than as authorized by the Office.

## **2. Participation of Reporting Party and Responding Party**

### **a. Opportunity to provide evidence**

During an investigation, both the Reporting Party and the Responding Party are permitted to provide evidence, including written statements, lists of potential witnesses and other physical or documentary evidence.

### **b. Cooperation and adverse inferences**

Full cooperation and participation in the investigation process is important to ensure that all relevant facts and evidence are presented to the Office so it can determine whether a *Code* Violation occurred. If a party declines to cooperate or participate in an investigation, the Office will make its decision based on the available evidence. If a Responding Party does not cooperate with the Office, an adverse inference may be drawn.

### **c. Witnesses**

Any witness scheduled to participate in an arbitration must consent to be interviewed by the Office prior to any hearing, unless the Office otherwise agrees to the witness's participation.

## **B. Preliminary inquiry**

### **1. Initiating proceedings**

- a. When the Office receives notice of a matter within its exclusive authority, or accepts a matter within its discretionary authority, it will undertake a preliminary inquiry to determine if there is (a) reason to believe (b) a Covered Individual (c) violated the *Code*. If, after a preliminary inquiry, the Office concludes there is reason to believe a Covered Individual has violated the *Code*, it will initiate proceedings, which may include an informal or formal resolution.
- b. The Office may initiate proceedings without a formal report, and reserves the right to initiate proceedings without a report from, or participation by, the Reporting Party.

### **2. Interim measures**

The Office may, at any point before a matter is final, seek interim measures as set forth below in Part V.

## **C. Informal resolution**

At any time prior to an arbitrator's final decision, the Office has the authority to reach an informal resolution of any matter. An informal resolution is a final disposition of the matter and the final disposition will not be confidential.

## **D. Formal resolution—full investigation**

If the Office determines that a formal resolution process is necessary, it will appoint trained investigators, usually within two business days of determining that a formal resolution should proceed. The number of investigators and the length of the investigation will depend on the nature and/or complexity of the matter.

### **1. Steps**

The investigator(s) may take the following steps:

- a.** Seek to notify the Reporting Party that the Office is conducting an investigation into the possible *Code* Violation and inform the Reporting Party of the right to meet with the investigator and present evidence in support of the complaint along with the names and/or contact information of any potential witnesses with direct knowledge of the allegations.
- b.** Seek to interview the Responding Party and advise the Responding Party of the nature of the allegation before making a determination. The Responding Party will be provided the opportunity to present a response to the allegations, including evidence and the names and/or contact information of potential witnesses with direct knowledge of the allegations.
- c.** Seek to interview witnesses with direct knowledge of the allegations.
- d.** Seek evidence and take any other action as the investigator may deem relevant to the investigation.
- e.** Review the evidence provided by a Third-party Reporter, the Reporting Party, the Responding Party or any other source.
- f.** Document all investigative efforts, including but not limited to interviews, receipt of relevant

documentation, database searches, and review and collection of other publicly-available information (e.g., social media, public records).

### **2. Closing the investigation**

At any point prior to final resolution the Office may close the investigation if (a) the investigator could not conduct or complete the investigation, (b) it is determined the Office does not have authority or jurisdiction over the alleged Violation or (c) it is determined there is no reason to believe that there has been a Violation. The Office may, at its discretion, reopen any case closed under this section.

### **3. Investigative report**

Upon completing the investigation, the investigator will prepare a report that, based on the preponderance of the evidence, sets forth findings of fact and references disputed facts and any credibility assessments. The investigator's report will also state whether the Responding Party violated the *Code*. If it is determined that the Responding Party violated the *Code*, the investigator will include in the report a recommended sanction.

### **4. The Director of Investigation's Decision**

The Director of Investigations (Director) will consider the investigative report and any other relevant information. If the Director decides no further investigation is necessary, the Director will issue a Decision that (a) states whether a violation of the *Code* occurred, based on a preponderance of the evidence, (b) the *Code* Violation and (c) the sanction to be imposed (if any), consistent with the Sanctioning Guidelines. The Decision will include a summary of the relevant facts, evidence relied upon and the rationale for

the Decision. Names of witnesses and parties will be replaced with alpha-numeric identifiers.

## **5. Notice of Director's Decision**

The Director will provide written notice and a copy of the Decision to the Responding Party and the Reporting Party. The written notice will state the Responding Party's opportunity to request a hearing before the arbitration body to challenge all or part of the Decision. The Decision will also include notice of the Reporting Party's right, as discussed below, to request a hearing before the arbitration body to challenge a determination that the Responding Party did not violate the *Code*. Notice and receipt may be accomplished either through actual notice or constructive notice. Constructive notice is sufficient for all purposes for which notification is required under these *Procedures*.

### **a. Actual notice**

Actual notice and receipt may be accomplished by any means that conveys actual knowledge of the matter to the person. Actual notice and receipt shall be effective upon delivery.

### **b. Constructive notice**

Constructive notice and receipt may be accomplished by third-party courier, email or U.S. Postal mail.

- i.** Notice shall be sent to the person's most recent mailing address or email address on file (taking into account the most recent contact information on file with the Office or the LAO, NGB or USOC, as relevant). Also, if the person has provided the Office with the name and contact information of a designated advisor, notice may be sent to the advisor's most recent mailing or

email address. Notice shall be achieved if the third-party courier indicates delivery or if the U.S. Postal mail is not returned within a reasonable period of time.

- ii.** Constructive notice and receipt shall be effective one business day after delivery by a third-party courier or email or five business days after depositing the notice with the U.S. Postal Service.

## **6. Options**

### **a. Reporting Party**

If the Director decides there was no violation of the *Code* by the Responding Party, the matter will be closed. If, however, the Reporting Party is an Athlete or Non-athlete Participant, then the Reporting Party may initiate arbitration within five business days to request a finding that the Responding Party violated the *Code*.

### **b. Responding Party**

If a violation of the *Code* is found, the Responding Party shall have five business days from receipt of the Director's notice to request a hearing concerning the Director's Decision. The Responding Party may request a hearing concerning the Director's finding(s) that there was a violation of the *Code*, the sanction or both. If the Responding Party fails to request a hearing within five business days, the Director's Decision shall go into effect unless the Director determines that the Responding Party has shown good cause for an extension of the time to request a hearing.

**c. Interim measures and sanctions remain in effect pending arbitration**

All interim measures and sanctions imposed by the Office will be in effect until arbitration, if any, is final. However, the Responding Party may request that the Director delay implementation of the sanctions until the arbitration is final. Whether to delay implementation of the sanctions rests in the sole discretion of the Director.

**7. Arbitration**

Any arbitration will be conducted pursuant to the *Supplementary Rules for U.S. Olympic and Paralympic SafeSport Arbitrations (Rules)*. On receiving a hearing request from the Responding Party, the Office will initiate an arbitration as provided for in the *Rules*. If these *Procedures* conflict with the *Rules*, the *Rules* govern.

**8. Reopening a case**

At any time after an informal resolution, Decision or arbitration is final, either the Reporting Party or Responding Party may request that the Office reopen a matter to consider new evidence, unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of the new evidence and its potential impact must be included in this request. Whether to reopen a case is within the Director's sole discretion.

**IV. MISCONDUCT RELATED TO THE OFFICE'S PROCEEDINGS**

When the Office is engaged in proceedings related to an actual or suspected *Code Violation*, and even after a matter is final, the following behavior by a Covered Individual may be considered misconduct, which violates these *Procedures*, and may give rise

to sanction: abuse of process, failure to report, intentionally making a false report, or Retaliation.

**A. Abuse of process**

Direct or indirect abuse of or interference with Office proceedings by: (a) falsifying, distorting or misrepresenting information; (b) destroying or concealing information prior to or during an investigation; (c) attempting to discourage an individual's proper participation in or use of, the Office's processes; (d) harassing or intimidating (verbally or physically) any person involved in the Office's processes before, during and/or following proceedings (including up to and through arbitration); (e) publicly disclosing a Reporting Party's identifying information; (f) failing to comply with an interim measure or other sanction; or (g) influencing or attempting to influence another person to commit abuse of process.

**B. Failure to report**

A failure by a Covered Individual to report actual or suspected misconduct that could violate the *Code*.

**C. Intentionally making a false report**

A report that is intentionally false or made maliciously without regard for truth.

**V. INTERIM MEASURES**

At any point before a matter is final through these *Procedures* or arbitration, interim measures may be appropriate to ensure the safety or well-being of the Reporting Party, Athletes, other Non-athlete Participants or the Responding Party. Interim measures may also be appropriate where an allegation against the Responding Party is sufficiently serious that the Responding Party's continued participation could be detrimental to sport or its reputation. Nothing in these *Procedures* prevents the Office, LAO, NGB or USOC from taking appropriate interim measures upon notice of an imminent threat of harm. In such emergency

circumstances, it may be appropriate to immediately remove a Covered Individual to address such a threat.

**A. Notice**

Unless imposed under emergency circumstances involving an imminent threat of harm, the Office will notify a Responding Party that it will impose interim measures unless the Responding Party requests an interim measures hearing as set forth in the *Rules*.

**B. Rules**

Any interim measures hearing will be conducted according to the *Rules*.

**C. Scope**

The interim measures hearing is not to be a full hearing on the merits and is limited to determining whether there exists reasonable cause to impose one or more interim measure(s).

**D. Measures**

Interim measures may include, but is not limited to, altering training schedules, providing chaperones, implementing contact limitations between the parties, and suspensions.

**VI. SANCTIONING GUIDELINES**

Sanctions will be reasonable and proportionate to the *Code* Violation and surrounding circumstances with the intended effect of protecting relevant participants.

**A. Possible sanctions**

One or more of the following sanctions may be recommended or imposed singularly or in combination: (a) written warning; (b) educational or behavioral programs; (c) loss of privileges; (d) probation; (e) suspension or other eligibility restrictions, up to and including permanent ineligibility. The Office reserves the right to lessen or

broaden any range of recommended sanctions in the case of mitigating circumstances or egregiously offensive behavior.

The Office may maintain a searchable database of Covered Individuals who have had their eligibility restricted or suspended under these *Procedures* on or after March 3, 2017.

**B. Considerations**

Factors relevant to determining appropriate sanctions include, without limitation:

1. Seriousness of the Violation;
2. The Responding Party's prior history;
3. Ages of individuals involved;
4. Whether the Responding Party poses an ongoing threat to the safety of others;
5. Voluntary disclosure of offense and/or cooperation by the Responding Party;
6. Disposition of an investigation by state or federal law authorities;
7. Real or perceived impact of incident on the Reporting Party, NGB(s) or USOC; and
8. Other mitigating and aggravating circumstances.

**C. Reciprocity**

A sanction as to one NGB's Covered Individual, resulting from the Office's exercise of its exclusive or discretionary authority, shall also be enforced by the USOC and all other NGBs.

## **VII. RELATED PROCEEDINGS**

### **A. Effect of criminal or civil proceedings**

Because the standards for finding a violation of criminal law are different from the standards for finding a violation of the *Code*, the resolution of a criminal proceeding is not determinative of (but may be relevant to) whether a violation of the *Code* has occurred, regardless of the outcome of any criminal process. Conduct may constitute sexual misconduct under the *Code* even if the Responding Party is not charged, prosecuted or convicted for the behavior that constitutes a potential violation of the *Code*, is acquitted of a criminal charge, or legal authorities decline to prosecute.

The Office's resolution will not typically be altered or precluded on the grounds that (a) a civil case or criminal charges involving the same incident or conduct has been filed, or (b) that charges have been dismissed or reduced; or (c) a lawsuit has been settled or dismissed. However, the Office may:

1. Undertake a delay in its investigation or resolution process to avoid any conflict or interference with law enforcement proceedings; and/or
2. Comply with a law enforcement request for cooperation when criminal charges associated with the incident or conduct that invoked this process is being investigated.

### **B. Effect of criminal conviction**

If the Responding Party is convicted of a crime or subject to a Criminal Disposition related to the underlying misconduct, the Office may either investigate or conclude that a violation of the *Code* occurred based on a conviction or Criminal Disposition. If a conclusion is reached that a violation of the *Code* occurred, the Office may issue a sanction.

## **VIII. USE OF MATERIALS**

Materials created or produced by the Office and marked confidential as part of these *Procedures* and any arbitration under the *Rules* shall not be disclosed outside those proceedings, except as required by law.

*Appendix B*



**SUPPLEMENTARY RULES FOR U.S. OLYMPIC AND  
PARALYMPIC SAFESPORT ARBITRATIONS**

**TABLE OF CONTENTS**

R-1. Application.....	1	R-12. Vacancies .....	4
R-2. Scope.....	1	a. Single arbitrator panel .....	4
R-3. Arbitrator qualifications.....	1	b. Three-arbitrator panel .....	4
R-4. Parties.....	1	R-13. Submissions to, and communication with, arbitrator..	4
R-5 Advisor.....	1	R-14. Hearing concerning sanctions .....	4
R-6. Confidentiality .....	1	a. Scope.....	4
R-7. Initiating arbitration .....	1	b. Standard of review .....	4
R-8. Number of arbitrators.....	2	c. Briefing .....	4
R-9. Arbitrator appointment.....	2	d. Oral argument .....	4
a. Single arbitrator.....	2	e. Decision.....	4
b. Three arbitrators.....	2	R-15. Pre-hearing conference.....	4
c. Interim measures hearings.....	3	R-16. Discovery .....	5
R-10. Notice to arbitrator of appointment.....	3	R-17. Date and time of hearing .....	5
R-11. Jurisdiction and conflicts of interest .....	3	R-18. Place of hearing.....	5
a. Jurisdiction .....	3	R-19. Attendance .....	6
b. Conflicts of interest.....	3	R-20. Oaths .....	6
c. Replacing a conflicted arbitrator .....	3	R-21. Interpreters .....	6
		R-22. Continuance .....	6
		R-23. Arbitration in the absence of a party or advisor .....	6
		R-24. Standard of proof .....	6
		R-25. Rules of evidence .....	6
		R-26. Evidence by affidavit .....	6
		R-27. Hearing.....	6
		a. Arbitrator to manage proceedings expeditiously..	6
		b. Opening statements .....	7

c. Presenting evidence.....	7
d. Examining witnesses.....	7
e. Role of the Reporting Party.....	8
f. Closing statements.....	8
g. Hearing closed to the public .....	8
h. No disclosure of information .....	8
i. Recording.....	8
R-28. Closing of hearing.....	9
R-29. Waiver of rules.....	9
R-30. Extensions of time.....	9
R-31. Notice and receipt .....	9
R-32. Decisions.....	9
a. Majority decision .....	9
b. Time .....	9
c. Form.....	9
d. Scope.....	9
e. Delivery to parties .....	9
R-33. Modifying decision .....	9
R-34. Appeal.....	10
R-35. Filing fees and expenses .....	10
R-36. Other fees and expenses.....	10
R-37. Arbitrator’s compensation.....	10
R-38. Allocating fees and expenses .....	11
R-39. Interpreting and applying the Rules .....	11
R-40. Interim measures .....	11

a. Notice to the Responding Party.....	11
b. Arbitrator.....	11
c. Filing fees and expenses.....	11
d. Procedures.....	12
e. Standard of review .....	12
f. Decision .....	12
g. No appeal .....	12
h. Final hearing expedited if interim measures imposed.....	12
Exhibit 1 .....	13
Exhibit 2.....	14
Exhibit 3.....	15



## SUPPLEMENTARY RULES FOR U.S. OLYMPIC AND PARALYMPIC SAFESPORT ARBITRATIONS

*Effective as of March 3, 2017*

\*All capitalized terms not otherwise defined here shall be defined as set forth in the *SafeSport Code for the U.S. Olympic and Paralympic Movement*.

### **R-1. Application**

The Commercial Arbitration *Rules* of the American Arbitration Association, as modified by these *Supplementary Rules for U.S. Olympic and Paralympic SafeSport Arbitrations (Rules)* shall apply to arbitrations arising out of the *SafeSport Practices and Procedures for the U.S. Olympic and Paralympic Movement (Procedures)*. If there is any variance between the Commercial Arbitration *Rules* and these *Rules*, these *Rules* govern.

### **R-2. Scope**

Arbitration shall resolve only whether a Responding Party violated the *SafeSport Code for the U.S. Olympic and Paralympic Movement (Code)* and/or the appropriate sanction (if any). Challenges to, or complaints about, any organizational practices or procedures shall not be addressed and the arbitrator shall be limited to evaluating whether a Covered Individual violated the *Code* and, if so, the appropriate sanction.

### **R-3. Arbitrator qualifications**

The pool of arbitrators for SafeSport cases shall consist of individuals who are U.S. citizens and meet the SafeSport Arbitrator Qualifications (Exhibit 3), as determined by the arbitration body. Any reference to arbitrator shall also refer to an arbitration panel consisting of three arbitrators, if applicable. All arbitrators in the SafeSport arbitrator pool will receive specialized training.

### **R-4. Parties**

When the Responding Party requests a hearing under the *Rules*, the parties to the arbitration will be the Office and the Responding Party. When the Reporting Party requests a hearing under the *Rules*, the parties to the arbitration will be Reporting Party and the Responding Party. Any reference to the Office in these *Rules* shall refer to the Reporting Party. A reference to the parties, the Office, the Responding Party or the Reporting Party will include any parent or guardian of a Minor, unless otherwise stated herein.

### **R-5 Advisor**

Any party (and the Reporting Party) may have a single advisor, at that party's own expense. The advisor may but need not be an attorney. The advisor may participate in the pre-hearing conference, confer with the advisee during the hearing, clarify procedural questions, present opening and closing arguments on behalf of the advisee, suggest questions to the advisee and the hearing panel during witness examinations, or to the extent direct examination by the parties is permitted, question witnesses on behalf of the advisee. A party intending to have an advisor shall notify the other party and the arbitration body of the name and address of the advisor a minimum of 24 hours before the date set for the hearing or other proceeding at which the advisor is first to appear. The parties are responsible for keeping the arbitration body informed of any changes in advisors. Notice given to a designated advisor shall be deemed notice to the advisee.

### **R-6. Confidentiality**

The arbitration, including all pre-hearing matters, shall be subject to the confidentiality provisions set forth in the *Procedures* and other confidentiality policies adopted by the U.S. Center for SafeSport Response and Resolution Office (Office).

### **R-7. Initiating arbitration**

After receiving a request for an arbitration hearing and the required fees from the appropriate party under R-35, the Office will send a

notice to the Responding Party, the Reporting Party and the arbitration administrator informing them that an arbitration has been initiated and requesting confirmation of an email address to which notice will be deemed received upon mailing to such address.

The notice shall set forth (i) the alleged Violation; (ii) the sanction determined by the Office; (iii) the recipient's confidentiality obligations; and (iv) that any recipient who violates confidentiality obligations shall be subject to the jurisdiction of the Office and may be held, after proper process, to have violated the *Code*.

#### **R-8. Number of arbitrators**

There shall be one arbitrator. If the Office's sanction involves a suspension or period of ineligibility that is two years or longer, the Office or the Responding Party may request a three-arbitrator panel as provided in R-9.b.

#### **R-9. Arbitrator appointment**

##### **a. Single arbitrator**

- (1) Promptly after arbitration is initiated, the arbitration body will send simultaneously to each party an identical list of nine arbitrators, all of whom shall be attorneys or retired judges. The parties are encouraged to agree to an arbitrator from the submitted list and to advise the arbitration body of their agreement.
- (2) Within 48 hours after receiving the arbitrator list, the Office and the Responding Party each may strike the names of up to three arbitrators from the list and return the list to the arbitration body. If a party does not return a strike list within the time specified, all persons named in the list shall be deemed acceptable to that party. The names stricken by a party will not be disclosed to the other party.
- (3) From among the persons who have been approved on both lists the arbitration body shall invite an arbitrator to serve. If, for any reason, an arbitrator cannot be appointed from

the submitted lists, the arbitration body shall have the power to make the appointment from among the other attorneys or retired judges of the pool, not to include any arbitrator previously stricken by a party.

##### **b. Three arbitrators**

- (1) If the Office's sanction involves a suspension or period of ineligibility of two years or longer, the Responding Party shall, when requesting a hearing, advise the Office whether a panel of three arbitrators is requested. The Office shall also have the right to request a panel of three arbitrators and the arbitration body shall be so advised.
- (2) Promptly after arbitration is initiated, the arbitration body will send simultaneously to each party an identical list of 12 arbitrators, at least four of whom shall be attorneys or retired judges.
- (3) Within 48 hours after receiving the arbitrator list, the Office and the Responding Party each may strike the names of up to four arbitrators from the list and return the list to the arbitration body. If a party does not return a strike list within the time specified, all persons named in the list shall be deemed acceptable to that party. The names stricken by a party will not be disclosed to the other party.
- (4) From among the persons who have been approved on both lists, the arbitration body shall invite three arbitrators to serve, one of whom must be an attorney or retired judge. If, for any reason, the three arbitrators (including at least one attorney or retired judge) cannot be appointed from the submitted lists, the arbitration body shall have the power to make the appointment from among the other members of the pool, not to include any arbitrator previously stricken by a party.

**c. Interim measures hearings**

If an interim measures hearing is requested by the Office under R-40, it shall be heard by a single arbitrator, who is an attorney or retired judge, appointed by the arbitration body. The interim measures hearing arbitrator cannot manage the subsequent proceedings or serve as an arbitrator in a subsequent arbitration hearing of the matter.

**R-10. Notice to arbitrator of appointment**

Notice of the appointment of the arbitrator, whether appointed by the parties or by the arbitration body, shall be sent to the arbitrator by the arbitration body, together with a copy of these *Rules*. A signed acceptance by the arbitrator shall be filed with the arbitration body.

**R-11. Jurisdiction and conflicts of interest**

**a. Jurisdiction**

The arbitrator shall have the power to rule on the arbitration body's jurisdiction, including any objections with respect to the existence, scope or validity of the arbitration agreement. Any challenges to the arbitrator's jurisdiction must be made at the pre-hearing conference and shall be decided before the hearing, as set forth in R-15.

**b. Conflicts of interest**

- (1) Any person appointed as an arbitrator shall disclose to the arbitration body any circumstance that could affect impartiality or independence, including any bias, any financial or personal interest in the result of the arbitration, or any past or present relationship with the parties or witnesses.
- (2) The arbitration body shall communicate any information concerning a potential conflict of interest to the relevant parties and, as appropriate, to the arbitrator.

- (3) A party may file an objection with the arbitration body contesting an arbitrator's continued service due to a conflict of interest. Upon receiving an objection, the arbitration body shall determine whether the arbitrator should be disqualified and shall inform the parties of its decision, which shall be conclusive. The parties may agree in writing that an appointed arbitrator subject to disqualification will not be disqualified.

**c. Replacing a conflicted arbitrator**

If the arbitration body determines that a selected arbitrator has a conflict of interest with one of the parties and the parties do not agree to waive the conflict, then:

**(1) Single arbitrator panel**

The arbitration body shall select a substitute arbitrator from the remaining attorneys or retired judges named on the arbitrator pool list. If the appointment cannot be made from the list, the arbitration body shall have the power to make the appointment from among other attorneys or retired judges in the arbitrator pool without the submission of additional lists, not to include any arbitrator previously stricken by a party

**(2) Three-arbitrator panel**

If an attorney or retired judge remains, then the arbitration body shall select a substitute arbitrator from the remaining names on the arbitrator pool list. If the appointment cannot be made from the list, the arbitration body shall have the power to make the appointment from among other members of the arbitrator pool without the submission of an additional list, not to include any arbitrator previously stricken by a party.

**R-12. Vacancies**

If an arbitrator is no longer able to hear a case for which the arbitrator has been appointed, the vacancy will be filled as follows:

**a. Single arbitrator panel**

The arbitration body shall select a substitute arbitrator from the remaining attorneys or retired judges. If the appointment cannot be made from the list, the arbitration body shall have the power to make the appointment from among the other attorneys or retired judges of the full arbitrator pool without the submission of additional lists, not to include any arbitrator previously stricken by a party.

**b. Three-arbitrator panel**

If no attorney or retired judge remains on the panel, then the arbitration body shall select a substitute arbitrator from the remaining attorneys or retired judges on the arbitrator list. If the appointment cannot be made from the list, the arbitration body shall have the power to make the appointment from among the other attorneys or retired judges of the full arbitrator pool without the submission of additional lists, not to include any arbitrator previously stricken by a party. If an attorney or retired judge remains on the panel, then the arbitration body shall select a substitute arbitrator from among the remaining names on the arbitrator list, or, if the appointment cannot be made from the list, the arbitration body shall have the power to make an appointment from among the other members of the full arbitrator pool without the submission of additional lists, not to include any arbitrator previously stricken by a party.

**R-13. Submissions to, and communication with, arbitrator**

Except as provided under R-27.d., no party shall communicate unilaterally concerning the arbitration with an arbitrator or a candidate for an arbitrator position. Any documents submitted by any party to the arbitration body or to the arbitrator (with the exception of arbitrator

strike lists under R-9) shall simultaneously be provided to the other party or parties to the arbitration.

**R-14. Hearing concerning sanctions**

If a Responding Party requests a hearing concerning only the Office’s sanctions, the following *Rules* apply:

**a. Scope**

The Violation and the underlying facts will be deemed established. The arbitrator will determine whether the sanctions imposed fall outside the range of sanctions set forth in the *Procedures* and/or are otherwise inconsistent with the cumulative conduct history of the Responding Party.

**b. Standard of review**

The arbitrator is authorized to modify the sanction only upon finding that the Office abused its discretion.

**c. Briefing**

Within 10 business days of the arbitrator’s appointment, the Responding Party shall file a brief setting forth the basis for the challenge to the sanction. Within seven business days of the Responding Party’s filing, the Office shall file a responsive brief.

**d. Oral argument**

The decision shall be based on the parties’ briefs and the Director’s Decision. However, the arbitrator may in the arbitrator’s discretion allow for oral argument.

**e. Decision**

The arbitrator will render a final and binding written decision to all parties within five business days from briefing.

**R-15. Pre-hearing conference**

- a. The arbitrator shall schedule as soon as practicable a preliminary pre-hearing conference with the parties by

telephone or video teleconference, but no sooner than four business days and no later than 10 business days after the arbitrator is appointed.

- b. At least two business days before the pre-hearing conference, the Responding Party shall provide the Office and arbitration body with a written answer to the Office's decision against him/her (to include a written statement containing Responding Party's summary of the factual rebuttal to the Violation and the defenses the Responding Party intends to raise at the arbitration) and the documentary evidence and witnesses that the Responding Party intends to present at the hearing. If the Responding Party fails to submit the required information, the arbitrator has the discretion to deny its admittance at the arbitration.
- c. The pre-hearing conference will be directed by the arbitrator and shall be the exclusive opportunity of the parties to address issues that need to be resolved before the hearing, including, but not limited to:
  - (1) the timeline for the exchange of evidence and witness lists;
  - (2) any expected evidentiary issues;
  - (3) any challenges to jurisdiction;
  - (4) any disputes over the disclosure or exchange of evidence; and
  - (5) the scheduling and logistics of the hearing, to include without limitation the amount of time each side will have to present its evidence. The arbitrator will attempt to schedule the hearing to be completed within a single, eight-hour day.

The arbitrator may schedule more than one pre-hearing conference only if the arbitrator determines that an additional conference is necessary. All pre-hearing issues shall be resolved at the pre-hearing conference unless the arbitrator

orders briefing. If briefing is ordered, all briefs must be submitted at least five business days before the hearing, and the issues that are the subject of the briefing shall be, whenever possible, decided before the hearing.

The arbitrator shall issue a written decision memorializing decisions made and agreements reached during or following the pre-hearing conference. All identifying information of the Reporting Party (including name), the Responding Party and witnesses shall be redacted.

#### **R-16. Discovery**

There shall be no discovery, except in exceptional circumstances as ordered by the arbitrator.

#### **R-17. Date and time of hearing**

The arbitrator shall use best efforts to ensure that the hearing is completed and the decision rendered within 15 business days of the pre-hearing conference. Although the arbitrator shall make reasonable accommodations to the parties and their advisors with regard to scheduling, the parties and their advisors have a duty to be reasonably available to ensure the ability of the arbitration process to render a reasonably prompt result. The arbitrators in their sole discretion may rule that the unavailability of a party's advisor is not grounds for postponing the hearing. Failure by the arbitrator or the Office to adhere to the timelines set forth herein shall not be grounds for overturning the arbitrator's decision. On good cause shown by any party, the arbitration hearing process shall be expedited as may be necessary in relation to the Responding Party's potential participation in a competition as required by the Ted Stevens Olympic and Amateur Sports Act.

#### **R-18. Place of hearing**

The hearing will be conducted telephonically or by videoconference except as authorized by the arbitrator in unique circumstances, in which case the hearing may be held in person at a location in the United States determined by the arbitrator. If a hearing is held in

person, the arbitrator may nonetheless permit witnesses to appear behind screens, by telephone or via videoconference.

#### **R-19. Attendance**

Unless the arbitrator and the parties agree otherwise, only the following individuals shall be present at the hearing: (1) the Office; (2) the Responding Party; (3) the Reporting Party; (4) the parties' respective advisors; and (5) witnesses during their own testimony.

#### **R-20. Oaths**

Before proceeding with the hearing, each arbitrator will take an oath of office if required by law. The arbitrator will require witnesses to testify under oath if it is required by law.

#### **R-21. Interpreters**

All arbitration proceedings shall be conducted in English. Any party who would like an interpreter is responsible for coordinating directly with the interpreter and is responsible for the costs of the interpreter service. The interpreter must be free of conflicts of interest.

#### **R-22. Continuance**

The arbitrator may continue any hearing upon agreement of the parties, upon request of a party or upon the arbitrator's own initiative. Postponements shall be discouraged and only granted in compelling circumstances. A party or parties causing a postponement of a hearing will be charged a postponement fee, as set forth in the arbitration fee schedule (Exhibit 1).

#### **R-23. Arbitration in the absence of a party or advisor**

The arbitration may proceed in the absence of any party or advisor who, after notice, fails to be present or to obtain a postponement. The arbitrator shall require the party who is present to submit evidence that the arbitrator may require for the making of a decision.

#### **R-24. Standard of proof**

The arbitration body shall use a preponderance of the evidence standard to determine if a Covered Individual has violated the *Code*.

#### **R-25. Rules of evidence**

- a. Strict conformity to legal *Rules* of evidence shall not be necessary, and hearsay evidence may be considered.
- b. Any party may introduce the Director's Decision into evidence, and the arbitrator shall give it appropriate weight.
- c. The arbitrator shall determine the admissibility, relevance and materiality of the evidence offered and may exclude evidence deemed by the arbitrator to be cumulative, irrelevant or unreliable.
- d. The arbitrator may draw an adverse inference by failure of the Responding Party to cooperate, participate or testify during the Office's investigation or the arbitration.
- e. The arbitrator shall take into account applicable principles of legal privilege, including without limitation those involving the confidentiality of communications between an attorney and client and between a physician and patient.
- f. Any statement from a Minor, be it written, recorded or live, and whether direct or hearsay, shall be admissible.

#### **R-26. Evidence by affidavit**

The arbitrator may receive and consider the evidence of witnesses by declaration or affidavit and shall give it such weight as the arbitrator deems appropriate after considering any objection made to its admission.

#### **R-27. Hearing**

Unless the parties agree that the arbitrator can determine the case without an oral hearing and on written briefings alone (which the parties may do whether the matter relates to liability and sanctions or sanctions only), the arbitrator will hold an oral hearing.

#### **a. Arbitrator to manage proceedings expeditiously**

The arbitrator, exercising discretion, shall conduct the proceedings expeditiously and may direct the order of proof,

bifurcate the hearing between the Violation and sanction portions of the hearing, and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the case.

**b. Opening statements**

Each party shall be entitled to present a concise opening statement prior to the presentation of evidence. The Office or its advisor shall present its opening statement first, followed by the Responding Party.

**c. Presenting evidence**

Both the Office and the Responding Party shall be entitled to an equitable amount of time to present evidence in support of or in opposition to the alleged Violations, as determined by the arbitrator at the pre-hearing conference. Absent exceptional circumstances, the parties will be expected to complete the hearing in a single, eight-hour business day. The arbitrator will track the time used by each party during the course of proceedings and enforce the time limits to ensure equitable time to both parties. The parties will be permitted, subject to any pre-hearing orders, to present documentary evidence through the submission of exhibits and to present testimony through affidavit or in-person testimony of witnesses.

The Office will present its evidence first. The Responding Party will present its evidence second. The Office will then present any rebuttal evidence.

**d. Examining witnesses**

(1) The Responding Party and Reporting Party shall be subject to questioning by only the arbitrator unless the Responding Party or Reporting Party agrees to direct examination and cross-examination by the opposing party.

(2) Unless the Responding Party and/or Reporting Party elect to be questioned directly by the parties, no later than five days before the hearing, the Office and the Responding Party each may submit, *ex parte*, proposed questions and lines of inquiry to the arbitrator for the questioning of the Responding Party and Reporting Party. The arbitrator will review the submitted questions and lines of inquiry and will, in the arbitrator's discretion, determine which are appropriate and relevant based on the understanding of the matter and to ensure the arbitrator's ability to render a decision in the matter. The arbitrator also may ask such other questions which the arbitrator deems appropriate.

(3) If the arbitrator has been the sole questioner of the Responding Party or Reporting Party, then after the arbitrator's direct questioning of the Responding Party or Reporting Party is completed, the witness will be temporarily excluded from the hearing so that the arbitrator can discuss with each of the parties separately appropriate follow-up questions or supplemental lines of inquiry for the arbitrator to consider. The arbitrator will hold separate *ex parte* conferences with each party regarding appropriate follow-up questions or lines of inquiry, except that the Responding Party shall not be permitted to participate in conferences relating to the Reporting Party's questioning, nor shall the Reporting Party be permitted to participate in such conferences when questions for the Reporting Party are at issue. After the *ex parte* conferences are concluded, the witness then will re-join the arbitration hearing, and the arbitrator will ask follow-up questions of the witness that the arbitrator deems appropriate.

(4) The arbitrator shall also question any witness. The parties may also question all other witnesses directly, provided that the arbitrator shall have the authority to limit questioning of witnesses or lines of inquiry based on, without limitation, relevance, that the questioning is

cumulative, or that the questioning has become harassing or abusive.

**(5) Examining Minors**

The presumption is that a Minor will not testify live at a hearing; however, with the permission of the Minor's parents or guardians, the Minor may testify if so desired. The arbitrator shall determine the manner in which Minor's evidence shall be given, including whether any or all questioning of the Minor (live or via video) will be completed outside the presence of their parent(s) or guardian(s), bearing in mind (a) the objective of achieving a fair hearing, (b) the possible damage to a Minor's welfare from giving evidence, and (c) the possible advantages that the Minor's evidence will bring to determining the facts.

A Minor may only be asked to testify in exceptional circumstances as determined by the arbitrator. In making this decision, the arbitrator shall consider:

- (a) the Minor's wishes and feelings, in particular, the Minor's willingness to give evidence (an unwilling Minor should rarely, if ever, be obligated to give evidence);
- (b) the Minor's particular needs and abilities;
- (c) whether the case depends on the Minor's allegations alone;
- (d) corroborative evidence;
- (e) the age of the Minor;
- (f) the maturity, vulnerability, understanding, capacity and competence of the Minor;
- (g) whether justice can be done without further questioning of the Minor;

- (h) the wishes and views of any parent, person with parental responsibility for the Minor, or any guardian, if appropriate; and
- (i) whether the Minor has given evidence to another tribunal or court related to the subject matter of the proceeding, the way in which such evidence was given, and the availability of that evidence.

**e. Role of the Reporting Party**

In arbitrations requested by the Responding Party, the Reporting Party is not a party, but has the right to be present during the hearing and to give testimony as a witness if called, but shall not otherwise participate in the hearing.

**f. Closing statements**

Each party will be entitled to present a concise closing statement after the close of evidence and before the hearing is concluded. The Office will present its closing statement first, followed by the Responding Party, and the Office will be allowed time for a reply.

**g. Hearing closed to the public**

The hearing shall be closed to the public.

**h. No disclosure of information**

All information obtained by the Office, Responding Party or the Reporting Party during the arbitration shall be subject to the stated limits set forth in the Office's *Procedures*.

**i. Recording**

At the request of any party, hearings shall be recorded by the arbitration body and retained by the Office in its confidential files, but shall not be made available to any party or third party except in accordance with the *Procedures*. The requesting party is responsible for arranging the recording.



### **R-28. Closing of hearing**

After all evidence has been submitted at the hearing, the arbitrator shall specifically inquire of each party whether it has any further evidence to offer or witnesses to be heard. Unless the arbitrator determines that additional evidence or witness(es) are required to resolve the controversy, the arbitrator will declare the hearing closed. There shall be no post-hearing briefing ordered except in exceptional circumstances. If documents or responses are to be filed as directed by the arbitrator, or if briefs are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for the receipt of briefs.

### **R-29. Waiver of Rules**

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these *Rules* has not been complied with and who fails to promptly state an objection in writing shall be deemed to have waived the right to object.

### **R-30. Extensions of time**

For good cause shown, the arbitrator may extend any period of time established by these *Rules*, except the time for making the decision, keeping in mind the need to resolve these disputes expeditiously; the unavailability of an advisor—after an arbitrator’s efforts to reasonably accommodate the advisor’s schedule—shall not be considered good cause except in exceptional circumstances. The arbitrator shall notify the parties of any extension.

### **R-31. Notice and receipt**

The parties each must provide an email address to the arbitration body and opposing parties/advisors upon initiation of an arbitration under the *Rules*. Notice sent to that email address shall be considered actual notice to the party effective upon delivery.

### **R-32. Decisions**

#### **a. Majority decision**

When the arbitration is heard by more than one arbitrator, a majority of the arbitrators shall issue one written decision. As

appropriate, names will be replaced with alpha-numeric identifiers. There shall be no written dissents.

#### **b. Time**

The reasoned decision shall be made promptly by the arbitrator after the close of evidence, and, unless otherwise agreed by the parties or specified by law, no later than seven business days from the date of close of the evidence or any briefing ordered by the arbitrator.

#### **c. Form**

In all cases, the arbitrator shall render a written, reasoned final decision, which shall be signed by the arbitrator. All identifying information of the Reporting Party (including name), and witnesses (other than the Responding Party) shall be redacted. If the arbitrator determines that there has been no Violation, then the Responding Party may request that the arbitrator redact their name and/or identifying information in the final decision.

#### **d. Scope**

The arbitrator may grant such remedy or relief the arbitrator deems just and equitable and within the scope of the *Code* and the Sanctioning Guidelines.

#### **e. Delivery to parties**

The final decision shall be deemed delivered to the parties if transmitted as provided in R-31.

### **R-33. Modifying decision**

Within three business days after the transmittal of the arbitrator’s final decision, any party, upon notice to the other parties, may request the arbitrator, through the arbitration body, to correct any clerical, typographical or computational errors in the decision. The arbitrator is not empowered to re-determine the merits of any matter already decided. The other parties shall be given two business days to respond to the request. The arbitrator shall dispose of the request within two

business days after transmittal by the arbitration body to the arbitrator of the request and any response thereto.

#### **R-34. Appeal**

The arbitration decision shall be considered final and binding. The parties to arbitration waive, to the fullest extent permissible by law, any right to challenge in court the arbitrator's decision.

#### **R-35. Filing fees and expenses**

- a. The arbitration body shall prescribe filing and other administrative fees and expenses to compensate it for the cost of providing services. The fees in effect when the fee or charge is incurred shall be applicable.

- b. Initiating arbitration

- 1. Arbitration requested by Responding Party

- a) Arbitration fees and expenses

- The Responding Party shall pay a full deposit for all fees and expenses associated with the arbitration as set forth in Exhibit 1. If the Responding Party fails to provide the deposit, then the arbitration may not proceed.

- b) Hardship exemption

- In the case of Responding Parties who are Athletes, the Responding Party may, at the discretion of the Office, obtain a hardship exemption from payment of some of these fees through written certification that they have insufficient funds to cover arbitration (*see* Exhibit 2) If the Office grants an exemption, the Office shall pay all fees and expenses associated with the arbitration as set forth in Exhibit 1.

- 2. Arbitration requested by Reporting Party

- a) Arbitration fees and expenses

- The Reporting Party shall pay a full deposit for all fees and expenses associated with the arbitration as set forth in Exhibit 1. If the Reporting Party fails to provide the deposit, then the arbitration may not proceed.

- b) Hardship exemption

- In the case of Reporting Parties who are Athletes, the Reporting Party may, at the discretion of the Office, obtain a hardship exemption from payment of some of these fees through written certification that they have insufficient funds to cover arbitration (*see* Exhibit 2). If the Office grants an exemption, the Office shall pay all fees and expenses associated with the arbitration as set forth in Exhibit 1.

#### **R-36. Other fees and expenses**

The expenses of witnesses and translators for any party shall be paid by the party producing such witnesses or translators. Parties shall be responsible for their own advisor's fees and costs, and all other expenses not expressly assumed by the Office. A party who successfully seeks a continuance shall pay a continuance fee as set forth in Exhibit 1.

#### **R-37. Arbitrator's compensation**

- a. Arbitrators shall be compensated at the rates set forth in the arbitration fee schedule (Exhibit 1).
- b. If there is disagreement concerning the terms of compensation, an appropriate rate shall be established with the arbitrator and the arbitration body, and confirmed to the parties. Any arrangement for the compensation of an arbitrator shall be made through the arbitration body and not directly between the parties and the arbitrator.

### **R-38. Allocating fees and expenses**

The arbitrator shall, in the final reasoned decision, allocate fees and expenses as follows:

#### **a. Arbitrations requested by the Responding Party**

1. If a Violation is not found, the Office shall reimburse the Responding Party for all arbitration fees and expenses paid to the arbitration body pursuant to R-35.
2. If the case involves multiple Violations, and the arbitrator modifies some Violations but not all, the arbitrator has the discretion to allocate the fees and expenses paid to the arbitration body pursuant to R-35.
3. If, in a sanctions-only hearing, the sanction is reduced the arbitrator may reapportion responsibility for all arbitration fees and expenses paid to the arbitration body pursuant to R-35 between the Office and the Responding Party.

#### **b. Arbitrations requested by the Reporting Party**

If a Violation is found, the Office shall reimburse the Reporting Party for all arbitration fees and expenses paid to the arbitration body pursuant to R-35.

### **R-39. Interpreting and applying the *Rules***

The arbitrator shall interpret and apply these *Rules* insofar as they relate to the arbitrator's powers and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of these *Rules*, a majority of the arbitrators shall decide the issue.

### **R-40. Interim measures**

If the Office seeks interim measures, it will offer an opportunity for a hearing. The following *Rules* govern interim measures hearings.

#### **a. Notice to the Responding Party**

##### **(1) Emergency interim measures**

If an emergency interim measure is imposed, the Responding Party will be notified as soon as possible of (a) the interim measure and (b) the opportunity for a hearing to take place no later than 48 hours after the interim measure was imposed (unless otherwise agreed by the parties).

##### **(2) Non-emergency interim measures**

In all interim measures cases not involving a pre-hearing emergency interim measure, the Responding Party will receive notice of the opportunity for a hearing within 72 hours of receiving notice (unless otherwise agreed by the parties). If the Responding Party does not request a hearing within 24 hours of notice, then the interim measures will go into effect.

#### **b. Arbitrator**

If the Office imposes or seeks to impose interim measures prior to the appointment of the arbitrator as provided in R-9, then a special arbitrator will be appointed by the arbitration body solely to conduct the interim measures hearing. This special arbitrator shall not be considered for appointment pursuant to R-9. If the Office imposes or seeks to impose interim measures after the appointment of the arbitrator, then the appointed arbitrator shall conduct the interim measures hearing. The Office will be responsible for the fees and costs of the arbitrator for the interim measures hearing.

#### **c. Filing fees and expenses**

The arbitration body shall prescribe filing and other administrative fees and expenses to compensate it for the cost of providing services. The fees in effect when the fee or charge is incurred shall be applicable. The Office shall pay a

full deposit for all fees and expenses associated with arbitration as set forth in Exhibit 1.

**d. Procedures**

(1) Expedited proceedings

The interim measures hearing is an expedited proceeding to quickly resolve whether sufficient evidence exists to satisfy the arbitrator that the interim relief requested is appropriate on the facts and circumstances of the case. The interim measures hearing is not intended to be the hearing necessary to finally resolve whether the Responding Party has committed a Violation or what the appropriate sanctions should be, if a Violation is found to have occurred. Except in exceptional circumstances, the interim measures hearing will last no longer than two hours.

(2) Procedures

The hearing procedures for interim measures hearings shall be the same as for hearings, as set forth in R-27 above.

(3) Scope

The interim measures hearing will not be a hearing on the merits and is limited to determining if there is cause to impose the interim measure(s).

**e. Standard of review**

To impose interim measures, the arbitrator must find based on the evidence presented, that: (i) the interim measure is appropriate based on the allegations and facts and circumstances of the case as they appear to the arbitrator; (ii) the interim measure is appropriate to maintain the safety or well-being of the Reporting Party, Athletes, or other Non-athlete Participants; or (iii) the allegations against the Responding Party are sufficiently serious that the Responding

Party's continued participation in the sport could be detrimental to the reputation of sport.

**f. Decision**

The arbitrator may approve, reject, or modify the interim measures imposed or proposed by the Office. The arbitrator shall issue a decision regarding the Office's request for interim measures either orally at the conclusion of the interim measures hearing, with a written reasoned order to follow, or by a written reasoned decision issued within 24 hours of the close of the interim measures hearing. The decision shall be given no weight in the hearing of the case.

**g. No appeal**

Neither the Office nor the Responding Party may appeal the arbitrator's decision. The denial of the requested relief shall not, however, prejudice the Office's right to seek interim measures in the same case in the future.

**h. Final hearing expedited if interim measures imposed**

If interim measures are imposed, then the time for the hearing will be expedited to the extent feasible.

*Exhibit 1*

**JAMS ARBITRATION FEES**

The arbitration body for U.S. Olympic and Paralympic SafeSport Arbitrations is JAMS, [www.jamsadr.com](http://www.jamsadr.com). Applicable arbitration fees are as stated, effective March 3, 2017.

- \$5,200.00 Single arbitrator
- \$1,500.00 Single arbitrator, interim measures hearing
- \$13,400.00 Three-arbitrator panel

- A deposit for the full price of JAMS fees and neutral rates is due at the time an arbitration is requested. An amount of \$1,600 for single arbitrator matters and \$2,600 for tri-panel matters is non-refundable. An amount of \$1,500 for single arbitrator, interim measures hearings, is non-refundable.
- Applicable arbitrator travel costs will be charged.
- The above fees exclude usage of facilities. If a JAMS facility is used, a room rental fee not to exceed \$300/day will be charged.
- Hearing fees are non-refundable if time scheduled (or a portion thereof) is cancelled or continued after the cancellation date. The cancellation policy exists because time reserved and later cancelled generally cannot be replaced. In all cases involving non-refundable time, the party requesting the hearing is responsible for the fees of all parties.
- JAMS reserves the right to cancel the hearing if fees are not paid as required by the applicable cancellation date and JAMS confirms the cancellation in writing.

**CANCELLATION/CONTINUANCE POLICY**

<i>Cancellation/Continuance period</i>	<i>Fee</i>
14 days or more prior to hearing	<ul style="list-style-type: none"><li>• Arbitration, single arbitrator, \$3,600 is refundable</li><li>• Arbitration, three arbitrators, \$10,800 is refundable</li><li>• Interim Measures Hearing, non-refundable</li></ul>

*Exhibit 2*

**HARDSHIP CERTIFICATION**

I, \_\_\_\_\_, certify under penalty of perjury that I qualify for a Hardship Exemption under the Supplementary *Rules* for U.S. Olympic and Paralympic SafeSport Arbitrations because I:

\_\_\_\_\_ am an Athlete, as defined in the SafeSport Policies and Procedures for the U.S. Olympic Movement, **and**

\_\_\_\_\_ do not have sufficient funds to cover the costs of arbitration as of this date.

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Signature

**NOTARIZATION**

State of \_\_\_\_\_)

SS: County of )

On this, the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me a notary public, the undersigned officer, personally appeared \_\_\_\_\_, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that the same was executed for the purposes therein contained. In witness hereof, I hereunto set my hand and official seal.

\_\_\_\_\_  
Notary Public

***Exhibit 3***  
**SafeSport Arbitrator Qualifications**

**INDEPENDENCE**

Each arbitrator shall be independent. An arbitrator is “independent” if (a) the individual has or had no material affiliation or relationship, directly or indirectly, with the United States Center for SafeSport, the United States Olympic Committee (USOC), any National Governing Body (NGB), any Paralympic Sports Organization (PSO), the Athletes Advisory Council of the USOC (AAC), and/or any other affiliated organization such as an Olympic Training Center or designated partner, and (b) such person is free of any direct or indirect relationships that create an actual or perceived conflict of interest that could reasonably be expected to interfere with the exercise of independent judgment of such person. Before an arbitrator may be selected for the JAMS SafeSport Panel, the individual shall disclose any potential conflicts of interests to JAMS.

**KNOWLEDGE**

In addition to independence, arbitrators shall have a demonstrated working knowledge of sexual assault, domestic violence, child sexual abuse, grooming, trust dynamics, and trauma-informed questioning/forensic interviewing protocol. Experience involving emotional, physical and sexual misconduct in sport is strongly preferred.

**WORKING EXPERIENCE**

Arbitrators shall have experience working in at least one of the following areas:

- In criminal law as a judge, district attorney, or defense attorney, with specific experience in sexual misconduct
- Law enforcement, with specific experience in sexual misconduct
- As a social worker
- A Title IX coordinator or investigator
- As a guardian *ad litem* and/or
- Other comparable working experience.

## **Bio - Shellie Pfohl**

Shellie Pfohl is the CEO for the U.S. Center for SafeSport. She joined last November following a successful tenure as Executive Director of the President's Council on Fitness, Sports and Nutrition, appointed by President Barack Obama in 2010. Under Pfohl's leadership, the Council played a significant role in advancing First Lady Michelle Obama's Let's Move! initiative to end childhood obesity within a generation. Prior to working for the White House, she worked for a fitness technology company where she created strategic partnerships with state, national and international organizations and corporations to provide health and physical education resources for schools and community organizations. She founded Be Active North Carolina to increase physical activity among North Carolina citizens. While there, she led the implementation of Be Active Kids, a preschool physical activity and nutrition program implemented in over 7,000 childcare centers across North Carolina.

She also oversaw the training of more than 50,000 classroom teachers on the implementation of the Healthy Active Children Policy to incorporate physical activity into classroom settings throughout the state. In 2007, Be Active North Carolina was named the best physical activity organization in the nation by the National Association for Health & Fitness (NAHF).

Pfohl served both Democrat and Republican governors as the executive director of the North Carolina Governor's Council on Physical Fitness and Health from 1990 to 1998, and was head of the Physical Activity and Nutrition Branch in the North Carolina Department of Health and Human Services.