



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

**EFFECTIVE APRIL 1, 2023**

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

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

*Effective April 1, 2023*

## **I. AUTHORITY**

The U.S. Center for SafeSport (Center) is recognized by the United States Congress, the United States Olympic & Paralympic Committee (USOPC), and the National Governing Bodies (NGBs) as the official safe sport organization for all Olympic, Paralympic, Pan American and Para Pan American sports in the United States.

## **II. ADMINISTRATION AND COMPLIANCE**

The Code is administered by the Center. The USOPC, NGBs, and Local Affiliated Organizations (LAOs) must comply, in all respects, with these policies and procedures and shall be deemed to have incorporated the provisions into their relevant policies as if they had set them out in full therein.

NGBs and the USOPC are prohibited from interfering in, attempting to interfere in, or influencing the outcome of the Center's investigations. *See* 36 USC § 220541(f)(4).

Participants are responsible for knowing the information outlined herein and, by virtue of being a Participant, have expressly agreed to the jurisdiction of the Center and this Code's policies and procedures, including those governing arbitration. The Center reserves the right to make changes to the Code as necessary. Once posted online, notice has been provided and changes are effective immediately unless otherwise noted.

In the event that any party brings any action against the other related to this Code, the parties agree that the venue of such action shall be vested exclusively in the United States District Court for the District of Colorado.<sup>1</sup>

## **III. APPLICATION**

The Code applies to Participants, as defined below. To effectuate its mandate to protect those involved in amateur athletics from sexual or other forms of abuse, the Center assesses a Participant's fitness and eligibility to be involved with amateur athletics. Participation in the private associations making up the Olympic & Paralympic Movement is a privilege, not a right.

## **IV. JURISDICTION OF THE CENTER**

### **A. Exclusive Jurisdiction**

The Center has the exclusive jurisdiction to investigate and resolve allegations that a Participant engaged in one or more of the following:

1. Sexual Misconduct, including without limitation child sexual abuse and any misconduct that is reasonably related to an underlying allegation of Sexual Misconduct;
2. Criminal Charges or Dispositions involving Child Abuse or Sexual Misconduct;
3. Misconduct Related to Reporting, where the underlying allegation involves Child Abuse or Sexual Misconduct;
4. Misconduct Related to Aiding and Abetting, Abuse of Process, or Retaliation, when it relates to the

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<sup>1</sup> This provision is not intended in any way to waive or limit the requirement to arbitrate as set forth herein.

Center's process;

5. Other Inappropriate Conduct, as defined herein.

## **B. Discretionary Jurisdiction**

The Center has discretionary jurisdiction to investigate and resolve allegations that a Participant engaged in one or more of the following:

1. Non-sexual Child Abuse;
2. Emotional and physical misconduct, including stalking, bullying behaviors, hazing, and harassment;
3. Criminal Charges or Dispositions not involving Child Abuse or Sexual Misconduct;
4. Minor Athlete Abuse Prevention Policy or other similar Proactive Policy violations;
5. Misconduct Related to Aiding and Abetting, Abuse of Process, or Retaliation, when it relates to the processes of the USOPC, an NGB, an LAO, or any other organization under the Center's jurisdiction.

If the Center accepts discretionary jurisdiction, it will use the resolution procedures set forth herein.

## **C. Jurisdictional Reassessment**

The Center may reassess its jurisdictional decision at any time.

## **V. JURISDICTION OF THE USOPC, NGBs, and LAOs**

- A.** Before the Center expressly exercises jurisdiction over particular allegations regarding a particular Participant, the relevant organization (the USOPC, NGB, or LAO)

has the authority to implement necessary and appropriate measures, up to and including a suspension, to address any allegations of misconduct.

- B.** When the relevant organization has reason to believe that the allegations presented fall within the Center's exclusive jurisdiction, the organization—while able to impose measures—may not investigate or resolve those allegations.
- C.** When the allegations presented fall within the Center's discretionary jurisdiction, the organization may investigate and resolve the matter, unless and until such time as the Center expressly exercises jurisdiction over the particular allegations.
- D.** The Center will issue a Notice of Exercise of Jurisdiction to the USOPC, NGB, or LAO when the Center determines it has jurisdiction over an allegation of Prohibited Conduct. When the Center expressly exercises jurisdiction over particular allegations regarding a particular Participant, the relevant organization(s) cannot issue—in response to those allegations—a suspension or other restriction that may deny or threaten to deny a Respondent's opportunity to participate in sport. The relevant organization may implement any necessary safety plan(s) or temporary measure(s). The NGB shall inform the Center of any safety plan(s) or temporary measures(s) it or its LAO imposes within 72 hours of imposition.

## **VI. APPLICABLE PROCEDURES**

The applicable procedures for reporting, investigating, and resolving alleged misconduct depends on the nature of the misconduct, as set forth in the Code. The procedures set forth



herein will be applied to any matter over which the Center accepts jurisdiction. The procedures set forth by the adjudicating body (USOPC, NGB, or LAO) will be applied to any matter over which the Center does not accept jurisdiction.

## **VII. ENFORCEMENT AUTHORITY**

### **A. Enforcement Responsibility**

The USOPC, NGB, and LAO are responsible for enforcing eligibility determinations, sanctions and Temporary Measures imposed by the Center, as set forth below. 36 USC § 220505(d)(1)(C). All eligibility determinations, sanctions, and Temporary Measures imposed by the Center shall be in effect immediately upon issuance.

### **B. Reciprocal Enforcement**

Center issued eligibility determination(s) or sanction(s) shall be reciprocally enforced by and between all NGBs, LAOs, and the USOPC.

### **C. Reviewing Temporary Measures and Sanctions**

NGBs and the USOPC shall immediately review communications from the Center concerning Temporary Measures and sanctions for implementation. If the NGB or the USOPC determines an error or omission in such communication has been made, it shall notify the Center as soon as practicable, but no later than three Days after receipt.

### **D. Communications to Stakeholders**

The Center shall provide a Summary of Decision, which

the USOPC, NGBs, or LAOs may provide to parties to assist with enforcement of sanctions. The USOPC, the NGBs, and LAOs shall establish a method to communicate Temporary Measures and sanctions to their relevant stakeholders.

### **E. Requirements to Register or Affiliate with a National Governing Body**

To ensure enforcement, NGBs shall require any organization that wishes to register as an LAO, a member club, or otherwise affiliate with the organization (e.g., using the rules or procedures of an NGB), to agree to and comply with the Code, the requirements set forth in the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017, and to enforce any sanction(s) or Temporary Measure(s) imposed by the Center.

## **VIII. DEFINITIONS**

### **A. Athlete**

An athlete who meets the eligibility standards established by the NGB or Paralympic sports organization for the sport in which the athlete competes.

### **B. Child Abuse**

The term “child abuse” has the meaning set forth in Section 203 of the Victims of Child Abuse Act of 1990 (34 U.S.C. § 20341) or any applicable state law.

### **C. Claimant**

The person who is alleged to have experienced conduct

that constitutes a Code violation.

#### **D. Consent**

Consent is (a) informed (knowing), (b) voluntary (freely given), and (c) active (not passive). Consent must be demonstrated by clear words or actions, indicating that a person who is legally and functionally competent has indicated permission to engage in mutually agreed-upon 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 words or actions.

Consent cannot be obtained: (a) by force, (b) by taking advantage of the Incapacitation of another, when the person initiating sexual activity knew or reasonably should have known that the other was Incapacitated, (c) from someone who lacks legal capacity, (d) when a Power Imbalance exists.

1. Force includes (a) the use of physical violence, (b) threats, (c) intimidation, and (d) coercion.
  - a. Physical violence means that a person is exerting control over another person using physical force. Examples of physical violence include hitting, punching, slapping, kicking, restraining, strangling, and brandishing or using any weapon.
  - b. Threats are words or actions that would compel a reasonable person to engage in unwanted sexual

activity. Examples include threats to harm a person physically, to reveal private information to harm a person's reputation, or to deny a person's ability to participate in sport.

- c. Intimidation is an implied threat that menaces or causes reasonable fear in another person. A person's size, alone, does not constitute intimidation; however, a person's size may be used in a way that constitutes intimidation (e.g., blocking access to an exit).
- d. Coercion is the use of an unreasonable amount of pressure to gain intimate or sexual access. Coercion is more than an effort to persuade, entice, or attract another person to engage in sexual activity. When a person makes clear their decision not to participate in a form of Sexual Contact or Sexual Intercourse, their decision to stop, or their decision not to go beyond a certain sexual interaction, continued pressure can be coercive.

Whether conduct is coercive depends on: (i) the frequency of the application of the pressure, (ii) the intensity of the pressure, (iii) the degree of isolation of the person being pressured, and (iv) the duration of the pressure.

#### **2. Legal Capacity**

Minors cannot Consent to conduct of a sexual nature. While the legal age of Consent varies under

state and federal law, the age of capacity under the Code is 18.

A close-in-age exception will be applied to any policy violation between an adult and a Minor, or between two Minors, when there is no Power Imbalance and when the age difference is no more than three years.

When the assessment of whether a Participant's conduct violates the Code depends upon another individual being below a certain specified age, ignorance of their actual age is no defense. Neither shall misrepresentation of age by such person, nor a Participant's bona fide belief that such person is over the specified age, be a defense.

### 3. Incapacitation

Incapacitation means that a person lacks the ability to make informed, rational judgments about whether to engage in sexual activity. A person who is incapacitated is unable, temporarily or permanently, to give Consent because of mental or physical helplessness, sleep, unconsciousness, or lack of awareness that sexual activity is taking place. A person may be incapacitated because of consuming alcohol or other drugs, or due to a temporary or permanent physical or mental health condition.

Incapacitation is a state beyond drunkenness or intoxication. A person is not necessarily incapacitated merely because of drinking or using drugs. The impact of alcohol and other drugs varies from person to person and is evaluated under the specific circumstances of a matter.

A Respondent's being impaired by alcohol or other drugs is not a defense to any violation of the Code.

The Consent construct can also be applied to other forms of non-sexual conduct, such as hazing or other forms of Physical or Emotional Misconduct.

### **E. Days**

Unless expressly provided otherwise, the term "days" shall mean business days, which excludes weekends and national holidays.

### **F. Event**

The term "Event" shall have the meaning set forth in the Victims of Child Abuse Act of 1990 (34 U.S.C. § 20341). As of the effective date of these policies and procedures, "event" includes "travel, lodging, practice, competition, and health or medical treatment."

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

A regional, state or local club or organization that is directly affiliated with an NGB or that is affiliated with an NGB by its direct affiliation with a regional or state affiliate of said NGB. LAO does not include a regional, state, or local club or organization that is only a member of a National Member Organization of an NGB.

### **H. Minor or Child**

An individual who is, or is believed by the Respondent to be, under the age of 18.

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

An amateur sports organization, a high-performance management organization, or a Paralympic sports organization that is certified by the United States Olympic & Paralympic Committee under 36 USC § 220521. This definition shall also apply to the USOPC, or other sports entity approved by the USOPC, when they have assumed responsibility for the management or governance of a sport included on the program of the Olympic, Paralympic, Pan-American, or Parapan American Games. This would include any organization, member of that organization, or Participant that has subjected itself to the jurisdiction of the Center.

## **J. Participant**

1. Any individual who is seeking to be, currently is,<sup>2</sup> or was at the time of any alleged Code violation:
  - a. A member or license holder of an NGB, LAO, or the USOPC;
  - b. An employee or board member of an NGB, LAO, or the USOPC;
  - c. Within the governance or disciplinary jurisdiction of an NGB, LAO, or the USOPC;
  - d. Authorized, approved, or appointed by an NGB, LAO, or the USOPC to have regular contact with or authority over Minor Athletes.

## **K. Power Imbalance**

A Power Imbalance may exist where, based on the totality of the circumstances, one person has supervisory, evaluative, or other authority over another. Whether there is a Power Imbalance depends on several factors, including but not limited to: 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 parties involved; whether there is an aggressor; whether there is a significant disparity in age, size, strength, or mental capacity.

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 until the Athlete reaches 20 years of age.

A Power Imbalance may exist, but is not presumed, when an Intimate Relationship existed before the sport relationship (e.g., a relationship between two spouses or life partners that preceded the sport relationship).

## **L. Respondent**

A Participant who is alleged to have violated the Code.

## **M. Third-Party Reporter**

Reports brought by individuals other than the Claimant

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<sup>2</sup> For the purpose of evaluating whether an individual is considered a Participant per this provision, the phrase "currently is" includes the date on which the alleged misconduct was reported to the Center, through resolution, and including the period(s) of any sanctions imposed.

are referred to as “third-party reports” and those bringing them are “third-party reporters.”

## **IX. PROHIBITED CONDUCT**

This section of the Code sets forth expectations for Participants related to Emotional, Physical, and Sexual Misconduct, including Bullying, Hazing, and Harassment.

The privilege of participation in the Olympic & Paralympic Movement may be limited, conditioned, suspended, terminated, or denied if a Participant’s conduct is or was inconsistent with this Code or the best interest of sport and those who participate in it.

It is a violation of the Code for a Participant to engage in or tolerate: (1) Prohibited Conduct, as outlined in the Code; (2) any conduct that would violate any current or previous standards promulgated by the U.S. Center for SafeSport, an NGB, an LAO, or the USOPC that are analogous to Prohibited Conduct and that existed at the time of the alleged conduct; or (3) any conduct that would violate community standards analogous to Prohibited Conduct that existed at the time of the alleged conduct, including then applicable criminal or civil laws.<sup>3</sup>

Prohibited Conduct includes:

- A. Criminal Charges or Dispositions
- B. Child Abuse
- C. Sexual Misconduct
- D. Emotional and Physical Misconduct, including Stalking, Bullying, Hazing, and Harassment
- E. Other Inappropriate Conduct

- F. Aiding and Abetting
- G. Misconduct Related to Reporting
- H. Misconduct Related to the Center’s Process
- I. Retaliation
- J. Violation of Minor Athlete Abuse Prevention Policies / Proactive Policies

### **A. Criminal Charge or Disposition**

It is a violation of the Code for a Participant to have a Criminal Charge or Disposition.

Criminal Conduct is relevant to an individual’s fitness to participate in sport. The age of a Criminal Charge or Disposition is not relevant to whether a violation of the Code occurred, but may be considered for sanctioning purposes. The Center reviews Criminal Charges or Dispositions involving sexual misconduct or child abuse *de novo*; any prior consideration or finding by an NGB, LAO, or the USOPC regarding a Criminal Disposition involving sexual misconduct or child abuse is not relevant to the Center’s determination.

#### **1. Definitions**

##### **a. Criminal Disposition**

It is a violation of the Code for a Participant to be or have been subject to any disposition or resolution of a criminal proceeding, other than an adjudication of not guilty, including, but not limited to: an adjudication of guilt or admission

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<sup>3</sup> The focus of this provision is on community standards in place at the time of the alleged conduct. The question is: Would a reasonable person at the time the alleged conduct occurred have had notice that the alleged conduct would have violated community standards and norms as those standards were generally expressed in then applicable criminal or civil statutes, or other applicable community standards? The Center need not establish every element of a crime, nor must it apply any evidentiary standards or burdens of proof other than those provided in this Code.

to a criminal violation, a plea to the charge or a lesser included offense, a plea of no contest, any plea analogous to an Alford or Kennedy plea, the disposition of the proceeding through a diversionary program, deferred adjudication, deferred prosecution, disposition of supervision, conditional dismissal, juvenile delinquency adjudication, or similar arrangement.

b. **Criminal Charge, including Warrant for Arrest**

It is a violation of the Code for a Participant to have any pending criminal charge(s) or warrant(s) for arrest.

When assessing whether conduct constitutes a Criminal Charge or Disposition, the Center may assess and rely upon the original charges, amended charges, or those to which a plea was entered.

**2. Sex Offender Registry**

A Participant who is currently on any state, federal, territorial, or tribal sex offender registry is ineligible to participate.

**3. Hearing Related to Criminal Charge or Disposition**

A Participant who wishes to challenge the Center's decision related to a Criminal Charge or Disposition may request a hearing concerning the sanction only pursuant to Rule-14.

If the Center renders a Decision regarding a Participant's Criminal Charge or Disposition, and

that Charge or Disposition is subsequently modified by a criminal court, the Participant may request that the matter be reopened by the Center, pursuant to Section XI(R). In instances where a pending criminal charge(s) resolves, in that the charge(s) is eventually dismissed, results in an acquittal, or results in a Criminal Disposition as defined above, a Respondent's request to reopen will always be granted and a new Decision issued.

**B. Child Abuse**

It is a violation of the Code for a Participant to engage in Child Abuse.

**C. Sexual Misconduct**

It is a violation of the Code for a Participant to engage in Sexual Misconduct. Sexual Misconduct offenses include, but are not limited to:

1. Sexual Harassment
2. Nonconsensual Sexual Contact (or attempts to commit the same)
3. Nonconsensual Sexual Intercourse (or attempts to commit the same)
4. Sexual Exploitation
5. Exposing a Minor to Sexual Content/Imagery
6. Sexual Bullying Behavior
7. Sexual Hazing
8. Other Inappropriate Conduct of a Sexual Nature.

**1. Sexual Harassment**

Sexual Harassment is any unwelcome sexual advance, request for sexual favors, or other

unwanted conduct of a sexual nature, whether verbal, non-verbal, graphic, physical, or otherwise, when the conditions outlined in (a) or (b) below are present:

Sexual Harassment also includes harassment related to gender, sexual orientation, gender identity, or gender expression, which may include acts of aggression, intimidation, or hostility, whether verbal or non-verbal, graphic, physical, or otherwise, even if the acts do not involve conduct of a sexual nature, when the conditions outlined in (a) or (b), below, are present:

- a. Submission to such conduct is made, either explicitly or implicitly, a term or condition of any person's employment, standing in sport, or participation in Events, sports programs or activities; or when submission to or rejection of such conduct is used as the basis for sporting decisions affecting the individual (often referred to as "quid pro quo" harassment); or
- b. Such conduct creates a hostile environment. A "hostile environment" exists when the conduct is sufficiently severe, persistent, or pervasive such that it interferes with, limits, or deprives any individual of the opportunity to participate in any program or activity. Conduct must be deemed severe, persistent, or pervasive from both a subjective and an objective perspective.

Whether a hostile environment exists depends on the totality of known circumstances, including, but not limited to:

- i. The frequency, nature, and severity of

- the conduct;
- ii. Whether the conduct was physically threatening;
- iii. The effect of the conduct on the Claimant's mental or emotional state;
- iv. Whether the conduct was directed at more than one person;
- v. Whether the conduct arose in the context of other discriminatory conduct;
- vi. Whether the conduct unreasonably interfered with any person's educational or work performance or sport programs or activities; and
- vii. Whether the conduct implicates concerns related to protected speech.

A hostile environment can be created by persistent or pervasive conduct or by a single or isolated incident that is sufficiently severe. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. A single incident of sexual contact without Consent, for example, may be sufficiently severe to constitute a hostile environment. In contrast, the perceived offensiveness of a single verbal or written expression, standing alone, is typically not sufficient to constitute a hostile environment.

## 2. Nonconsensual Sexual Contact

It is a violation of the Code for a Participant to engage in Sexual Contact without Consent.

Sexual Contact is any intentional touching of a

sexual nature, however slight, with any object or body part (as described below), by a person upon another person.

Sexual Contact includes but is not limited to: (a) kissing, (b) intentional touching of the breasts, buttocks, groin or genitals, whether clothed or unclothed, or intentionally touching of another with any of these body parts; and (c) making another touch themselves, the Participant, or someone else with or on any of these body parts.

### **3. Nonconsensual Sexual Intercourse**

It is a violation of the Code for a Participant to engage in Sexual Intercourse without Consent.

Sexual intercourse is any penetration, however slight, with any object or body part (as described below), by a person upon another person.

Sexual Intercourse includes (a) vaginal penetration by a penis, object, tongue, or finger; (b) anal penetration by a penis, object, tongue, or finger; and (c) any contact, no matter how slight, between the mouth of one person and the genitalia of another person.

### **4. Sexual Exploitation**

It is a violation of the Code for a Participant to engage in Sexual Exploitation. Sexual Exploitation occurs when a Participant purposely or knowingly:

- a. Allows third parties to observe private sexual activity from a hidden location (e.g., closet) or

through electronic means (e.g., Skype or live-streaming of images) without Consent of all parties involved in the sexual activity.

- b. Records or photographs private sexual activity or a person's intimate parts (including genitalia, groin, breasts, or buttocks) without Consent of all parties in the recording or photo.
- c. Engages in voyeurism (e.g., watching private sexual activity or viewing another person's intimate parts when that person would have a reasonable expectation of privacy), without Consent of all parties being viewed.
- d. Disseminates, shows or posts images of private sexual activity or a person's intimate parts (including genitalia, groin, breasts, or buttocks) without prior Consent of the person depicted in the images.
- e. Intentionally exposes another person to a sexually transmitted infection or virus without that person's knowledge.
- f. Engages in solicitation of prostitution, or prostituting or trafficking another person.

### **5. Exposing a Minor to Sexual Content/Imagery**

An Adult Participant violates this Code by intentionally exposing a Minor to content or imagery of a sexual nature, including but not limited to, pornography, sexual comment(s), sexual gestures, or sexual situation(s).



This provision does not exclude the possibility that similar behavior between adults could constitute other Sexual Misconduct, as defined in the Code.

## **6. Sexual Bullying Behavior**

Repeated or severe behavior(s) of a sexual nature that are (a) aggressive, (b) directed at a Minor, and (c) intended or likely to hurt, control, or diminish the Minor emotionally, physically, or sexually. Sexual Bullying-like Behaviors directed at adults are addressed under other forms of misconduct, such as Sexual Hazing or Sexual Harassment.

Sexual Bullying Behavior also includes bullying behavior related to gender, sexual orientation, gender identity, or gender expression, even if the acts do not involve conduct of a sexual nature.

Examples of Sexual Bullying Behavior may include, without limitation, ridiculing or taunting that is sexual in nature or based on gender or sexual orientation (real or perceived), gender traits or behavior, or teasing someone about their looks or behavior as it relates to sexual attractiveness.

Conduct may not rise to the level of Sexual Bullying Behavior if it is merely 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 who perceive they have incompatible views or positions. Bullying does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline, or improved Athlete

performance.

## **7. Sexual Hazing**

Any conduct of a sexual nature 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.

Sexual Hazing also includes hazing related to gender, sexual orientation, gender identity, or gender expression, even if the acts do not involve conduct of a sexual nature.

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

Conduct may not rise to the level of Sexual Hazing if it is merely rude (inadvertently saying or doing something hurtful), mean (purposefully saying or doing something hurtful), or arising from conflict or struggle between persons who perceive they have incompatible views or positions. Hazing does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline, or improved Athlete performance.

## **8. Other Inappropriate Conduct of a Sexual Nature**

It is a violation of the Code for a Participant to engage in any Other Inappropriate Conduct of a sexual nature, as further defined in the corresponding sections below.

## **D. Emotional and Physical Misconduct**

It is a Code violation for a Participant to engage in emotional or physical misconduct, when that misconduct occurs within a context that is reasonably related to sport, which includes, without limitation:

1. Emotional Misconduct
2. Physical Misconduct
3. Bullying Behavior
4. Hazing
5. Harassment.

### **1. Emotional Misconduct**

Emotional Misconduct includes (a) Verbal Acts, (b) Physical Acts, (c) Acts that Deny Attention or Support, (d) Criminal Conduct, or (e) Stalking. Emotional Misconduct is determined by the objective behaviors, not whether harm is intended or results from the behavior.

- a. Verbal Acts  
Repeatedly and excessively verbally assaulting or attacking someone personally in a manner that serves no productive training or motivational purpose.
- b. Physical Acts  
Repeated or severe physically aggressive behaviors, including but not limited to, throwing sport equipment, water bottles or chairs at or in the presence of others, punching walls, windows or other objects.
- c. Acts that Deny Attention or Support

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

### **d. Criminal Conduct**

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

### **e. Stalking**

Stalking occurs when a person purposefully engages in a course of conduct directed at a specific person, and knows or should know, that the course of conduct would cause a reasonable person to (i) fear for their safety, (ii) fear for the safety of a third person, or (iii) to experience substantial emotional distress.

“Course of conduct” means at least two or more acts, in which a person directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about another person, or interferes with another person’s property. “Substantial emotional distress” means significant mental suffering or anguish.

Stalking also includes “cyber-stalking,” wherein a person stalks another using electronic media, such as the internet, social networks, blogs, cell phones, texts, or other similar devices or forms of contact.

- f. Exclusion  
Emotional Misconduct does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline or improved Athlete performance. Emotional Misconduct also does not include conduct reasonably accepted as part of sport or conduct reasonably accepted as part of Participant's participation.

## 2. Physical Misconduct

Physical Misconduct is any intentional contact or non-contact behavior that causes, or reasonably threatens to cause, physical harm to another person.

Examples of physical misconduct may include, without limitation:

- a. Contact violations  
Punching, beating, biting, striking, strangling 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 legal drinking age; providing illegal drugs or non-prescribed medications to another.

- c. 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).
- d. 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. Physical Misconduct also does not include conduct reasonably accepted as part of sport or conduct reasonably accepted as part of Participant's participation.

## 3. Bullying Behavior

Repeated or severe behavior(s) that are (a) aggressive (b) directed at a Minor, and (c) intended or likely to hurt, control, or diminish the Minor emotionally, physically, or sexually. Bullying-like behaviors directed at adults are addressed under other forms of misconduct, such as Hazing or Harassment. Examples of bullying behavior may include, without limitation, repeated or severe:

- a. Physical  
Hitting, pushing, punching, beating, biting,

striking, kicking, strangling, slapping, spitting at, or throwing objects (such as sporting equipment) at another person.

- b. Verbal  
Ridiculing, taunting, name-calling or intimidating or threatening to cause someone harm.
- c. Social, including cyberbullying  
Use of 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. Criminal Conduct  
Bullying Behavior includes any conduct described as bullying under federal or state law.
- e. Exclusion  
Conduct may not rise to the level of Bullying Behavior if it is merely 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 who perceive they have incompatible views or positions. Bullying does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline, or improved Athlete performance.

#### 4. 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 subjected to Hazing is not a defense, regardless of the person's perceived willingness to cooperate or participate.

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, 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 or food; restrictions on personal hygiene.
- c. Criminal acts

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

d. Exclusion

Conduct may not rise to the level of Hazing if it is merely 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 who perceive they have incompatible views or positions. Hazing does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline, or improved Athlete performance.

**5. Harassment**

Repeated or severe conduct that (a) causes fear, humiliation or annoyance, (b) offends or degrades, (c) creates a hostile environment (as defined above), or (d) reflects discriminatory bias in an attempt to establish dominance, superiority or power over an individual or group based on age, 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.

Conduct may not rise to the level of Harassment if it is merely 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 who perceive they have incompatible views or positions. Harassment does not include professionally accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline, or improved Athlete performance.

**E. Other Inappropriate Conduct**

Other Inappropriate Conduct, as defined below, may be non-sexual or sexual in nature.

**1. Intimate Relationship**

An Adult Participant violates this Code by engaging in an intimate or romantic relationship where a Power Imbalance exists.

An Intimate or Romantic relationship is a close personal relationship—other than a familial 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 or interactions outside of or unrelated to the sport relationship (electronically or in person), the parties' emotional connectedness, the exchange of gifts, ongoing physical or intimate contact or sexual activity, identity as a couple, the sharing of sensitive personal information, or intimate knowledge about each other's lives outside the sport relationship.

**2. Intentional Exposure of Private Areas**

An Adult Participant violates this Code by intentionally exposing breasts, buttocks, groin, or genitals, or induces another to do so, to an Adult when there is a Power Imbalance, or to a Minor.

### **3. Inappropriate Physical Contact**

An Adult Participant violates this Code by engaging in inappropriate physical contact with a Participant when there is a Power Imbalance. Such inappropriate contact includes, but is not limited to, intentionally:

- i. touching, slapping, or otherwise contacting the buttocks or genitals of a Participant;
- ii. excessively touching or hugging a Participant;
- iii. kissing a Participant.

### **4. Willful Tolerance**

A Participant violates this Code by willfully tolerating any form of Prohibited Misconduct, when there is a Power Imbalance between that Participant and the individual(s) who are being subjected to the Prohibited Conduct.

## **F. Aiding and Abetting**

Aiding and Abetting occurs when one knowingly:

1. Aids, assists, facilitates, promotes, or encourages the commission of Prohibited Conduct by a Participant;
2. Allows any person who has been identified as suspended or otherwise ineligible by the Center to be in any way associated with or employed by an organization affiliated with or holding itself out as

affiliated with an NGB, LAO, the USOPC, or the Olympic & Paralympic Movement;

3. Allows any person who has been identified as suspended or otherwise ineligible by the Center to coach or instruct Participants;
4. Allows any person who has been identified as ineligible by the Center to have ownership interest in a facility, an organization, or its related entities, if that facility/organization/related entity is affiliated with or holds itself out as affiliated with an NGB, LAO, the USOPC, or the Olympic & Paralympic Movement;
5. Provides any coaching-related advice or service to an Athlete who has been identified as suspended or otherwise ineligible by the Center;
6. Allows any person to violate the terms of any temporary measures or any sanctions imposed by the Center.

In addition, a Participant also violates the Code if someone acts on behalf of the Participant to engage in Aiding or Abetting, or if the guardian, family member, or Advisor of a Participant, including Minor Participants, engages in Aiding or Abetting.

## **G. Misconduct Related to Reporting**

### **1. Failure to Report**

An Adult Participant who fails to report actual or reasonably suspected Sexual Misconduct or Child Abuse to the Center and, when appropriate, to law

enforcement may be subject to disciplinary action under the Center's resolution procedures and may also be subject to federal or state penalties.

- e. The obligation to report is broader than reporting a pending charge or criminal arrest of a Participant; it requires reporting to the Center any conduct which, if true, would constitute Sexual Misconduct or Child Abuse. The obligation to report to the Center is an ongoing one and is not satisfied simply by making an initial report. The obligation includes reporting, on a timely basis, all information of which an Adult Participant becomes aware, including the names of witnesses, third-party reporters, and Claimants.
- f. The obligation to report includes personally identifying information of a potential Claimant to the extent known at the time of the report, as well as a duty to reasonably supplement the report as to identifying information learned at a later time.
- g. Participants should not investigate or attempt to evaluate the credibility or validity of allegations involving Sexual Misconduct or Child Abuse. Participants making a good faith report are not required to prove the reports are true before reporting.

## **2. Intentionally Filing a False Allegation**

In addition to constituting misconduct, filing a knowingly false allegation that a Participant engaged in Prohibited Conduct may violate state criminal law and civil defamation laws. Any Participant making a knowingly false allegation in a matter over which the

Center exercises jurisdiction shall be subject to disciplinary action by the Center.

- a. An allegation is false if the events reported did not occur, and the person making the report knows the events did not occur.
- b. A false allegation is different from an unsubstantiated allegation; an unsubstantiated allegation means there is insufficient supporting evidence to determine whether an allegation is true or false. Absent demonstrable misconduct, an unsubstantiated allegation alone is not grounds for a Code violation.

## **H. Misconduct Related to the Center's Process**

The behaviors identified below constitute Prohibited Conduct and may give rise to a sanction. In addition, a Participant also violates the Code if someone acts on behalf of the Participant and engages in any of the following Prohibited Conduct, including a Participant's Advisor, or the guardian, or family member of a Minor Participant. In such a case, the Participant and, if the party acting on behalf of the Participant is also a Participant, that person, may be sanctioned.

### **1. Abuse of Process**

A Participant, or someone acting on behalf of a Participant, violates this Code by directly or indirectly abusing or interfering with the Center's process by: (a) falsifying, distorting, or misrepresenting information, the resolution process, or an outcome; (b) destroying or concealing information; (c) attempting to discourage an

individual's proper participation in, or use of, the Center's processes; (d) harassing or intimidating (verbally or physically) any person involved in the Center's processes before, during, or following proceedings (including up to, through, and after any review by an arbitrator); (e) publicly disclosing a Claimant's identifying information<sup>4</sup>; (f) failing to comply with a temporary measure or other sanction; (g) distributing or otherwise publicizing materials created or produced during an investigation or Arbitration as a part of these policies or procedures, except as required by law or as expressly permitted by the Center; (h) influencing or attempting to influence another person to commit abuse of process; or (i) having another individual take any part of or complete any Center-required training for them.

### **I. Retaliation**

Retaliation or attempt to do the same by a Participant, someone acting on behalf of a Participant, an NGB, LAO, the USOPC, or any organization under the Center's jurisdiction is prohibited.

Retaliation is any adverse action or threat to take any adverse action against any person related to allegations of Prohibited Conduct.

Adverse actions include, but are not limited to:

threatening, intimidating, harassing, coercing, or any other action or conduct with the potential effect of dissuading any reasonable person from reporting Prohibited Conduct or engaging in activity related to any reporting or investigative processes.

Retaliation may take place at any time, including before, during, or after an individual's reporting or engagement in the processes of the Center or other relevant organization under the Center's jurisdiction.

Retaliation may be present even where there is a finding that no violation occurred. Retaliation does not include good-faith actions lawfully pursued in response to a report of a Code violation.

### **J. Minor Athlete Abuse Prevention Policies / Proactive Policies**

It is a violation of the Code for a Participant to violate any provision of the Minor Athlete Abuse Prevention Policies or other proactive policies adopted by the NGBs, LAOs, or the USOPC. Proactive policies set standards for professional boundaries, minimize the appearance of impropriety, and have the effect of preventing boundary violations and prohibiting grooming tactics.<sup>5</sup> Tailored to a specific sport, context, legal structure or constituency, such policies may address overnight travel rules (e.g., preventing unrelated Adult Participants and Minors from sharing

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<sup>4</sup> The Protecting Young Victims from Abuse and Safe Sport Authorization Act of 2017 requires that the Center "protect the privacy and safety of the [Claimant]." However, a Claimant may waive this provision by choosing to publicly disclose their own identifying information at any time.

<sup>5</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 them. Grooming occurs through director, in-person or online contact.



rooms under specified circumstances), massages and rubdowns, social media and electronic communications, photography, locker rooms, one-on-one meetings and gifting.

## X. REPORTING

### A. General Requirements

1. Adult Participants must know their reporting requirements under this Code, state law, and federal law. Lack of knowledge about a reporting obligation is not a defense.
2. Nothing in this Code shall be construed to require a victim of child abuse or other misconduct to self-report.
3. No one should investigate suspicions or allegations of child abuse or other Prohibited Conduct, or attempt to evaluate the credibility or validity of allegations as a condition of reporting to the Center or to appropriate authorities.
4. The reporting requirements under this section are an individual obligation of each Adult Participant. Reporting to a supervisor or administrator does not relieve an Adult Participant of the obligations to report as specified under this section. Adult Participants must report even if they believe someone else has already reported.

5. Adult Participants must follow any other reporting requirements imposed by their organization.
6. Reports to the Center can be made:
  - a. Through the [U.S. Center for SafeSport's online reporting form](http://www.uscenterforsafesport.org/report-a-concern) ([www.uscenterforsafesport.org/report-a-concern](http://www.uscenterforsafesport.org/report-a-concern)).
  - b. By Phone at 720-531-0340, during regular business hours (Monday-Friday, 8:00 AM MT – 4:00 PM MT.) or toll-free at 1-833- 5US-SAFE (24-hours per day, 7-days per week).

### B. Reporting Requirements related to Child Abuse, including Child Sexual Abuse

1. An Adult Participant who learns of information or reasonably suspects that a child has suffered an incident of child abuse, including sexual abuse, must immediately:
  - a. Make a report to law enforcement<sup>6</sup> **AND**
  - b. Make a report to the U.S. Center for SafeSport **AND**
  - c. Comply with any other applicable reporting requirements under state law.<sup>7</sup>
2. Reporting to the Center alone is not sufficient. You must report to both the Center and to law enforcement, and comply with any other applicable state or federal laws.

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<sup>6</sup> The agency designated by the Attorney General, consistent with federal requirements set forth in section 226 of the Victims of Child Abuse Act of 1990 (34 U.S.C. § 20341).

<sup>7</sup> Information about state reporting requirements is available at <https://www.childwelfare.gov/topics/responding/reporting>

3. Child Abuse includes incidents that involved a victim who is a minor at the time of the alleged incident, even if the victim is now an adult.

**C. Reporting Requirements Relating to Sexual Misconduct**

1. An Adult Participant who learns of information or reasonably suspects that an incident(s) of Sexual Misconduct has occurred, must immediately report the incident(s) directly to the Center.
2. This reporting requirement applies regardless of whether the suspected victim is an adult or minor.
3. If the Sexual Misconduct involves a minor, it must be reported as child abuse pursuant to Section X.B above.

**D. Additional Misconduct that Adult Participants must report to the Center:**

1. Criminal Charge(s) or Disposition(s) involving sexual misconduct or misconduct involving Minors.
2. Misconduct related to the Center's process, including suspected incident(s) of:
  - a. Aiding and Abetting
  - b. Abuse of Process
3. Retaliation.

**E. Emotional & Physical Misconduct and Proactive Policies**

1. An Adult Participant who learns of information or reasonably suspects that an incident(s) of emotional or physical misconduct (including bullying, stalking,

hazing, and harassment) prohibited under the Code has occurred must report it to the organization (USOPC, NGB, or LAO) with which the Participant is affiliated.

2. An Adult Participant who learns of information or reasonably suspects a violation of the Minor Athlete Abuse Prevention Policies or other proactive policies must report it to the organization (USOPC, NGB, or LAO) with which the Participant is affiliated.
3. In lieu of reporting to the USOPC, NGB, or LAO, an Adult Participant can satisfy the reporting requirements in Section X.E by reporting to the Center.

**F. Anonymous Reports**

Reports may be made anonymously to the Center. Anonymity means the Center will not know the personally identifying information of the reporter. It does not mean that the underlying information will be protected.

However, an anonymous report may limit the Center's ability to investigate and respond to a report, and if an Adult Participant reports anonymously, it may not be possible for the Center to verify that mandatory reporting obligations have been satisfied.

*Consequently, the Center strongly encourages Adult Participants to provide their name and contact information when reporting.*

**G. Confidentiality for Third-Party Reporters**

Unless necessary to the Center's investigation or resolution of a matter, the Center does not disclose a

Third-Party Reporter’s personally identifying information.

## **H. Reporting Options for Claimants**

A Claimant may choose to make a report to the Center to pursue resolution under these procedures and may also choose to make a report to law enforcement or pursue available civil or administrative remedies. A Claimant may pursue one, some, or all of these options at the same time.

A Claimant who wishes to pursue criminal action in addition to, or instead of, making a report under these procedures should contact law enforcement or legal counsel directly.

## **XI. RESOLUTION PROCEDURES**

### **A. Initiating Proceedings**

When the Center receives a report of allegations that fall within its exclusive authority, or accepts jurisdiction over allegations within its discretionary authority, it will notify the relevant NGB, or the USOPC, conduct a preliminary inquiry, and, if appropriate, undertake an investigation to determine whether a Participant violated the Code.

### **B. Substantive Standards and Procedural Rules**

When the alleged conduct by a Participant occurred prior to the effective date of the Code, the Center may apply other substantive standards in effect at the time of the conduct that are analogous to Prohibited Conduct, including then effective criminal laws or previous standards promulgated by the Center, NGB, LAO, or

USOPC. However, in all cases, these resolution procedures will be used to investigate and resolve matters, regardless of when the incident of Prohibited Conduct occurred.

### **C. Standard of Proof**

The Center bears the burden of gathering sufficient evidence to reach a determination, based on the preponderance of the evidence, that a Participant violated the Code. A “preponderance of the evidence” means “more likely than not.”

### **D. Consolidation**

Matters involving more than one Claimant or more than one Respondent may, in the Center’s discretion, be consolidated into a single matter.

### **E. Related Proceedings**

#### **1. 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 without a Criminal Disposition is not determinative of (but may be relevant to) whether a violation of the Code has occurred. Conduct may violate the Code even if the Respondent is not charged, prosecuted or convicted for the behavior that could constitute a potential violation of the Code, is acquitted of a criminal charge, or legal authorities decline to prosecute.

Apart from the application of the Code as it relates to

Criminal Charge(s) and Disposition(s), the Center's resolution will not be precluded merely because (a) a civil case or criminal charges involving the same incident or conduct have been filed, (b) criminal charges have been dismissed or reduced; or (c) a civil lawsuit has been settled or dismissed.

## **2. No Waiver of Other Legal Remedies**

Participating in the Center's process does not extend or restrict a person's right to file charges or claims regarding the underlying allegations with any other agency, law enforcement, or court. This is not intended to create or grant a right of action against the Center or in any way waive the Center's, the USOPC's, an NGB's, or any other applicable party or entity's immunity, if any, under the Protecting Young Victims from Abuse and Safe Sport Authorization Act of 2017 or any other legal theory.

## **F. Coordinating with Law Enforcement**

The Center may contact any law enforcement agency that is conducting its own investigation to inform that agency that the Center is also investigating, to ascertain the status of the criminal investigation, and to determine the extent to which any evidence collected by law enforcement may be available to the Center in its investigation. At the request of law enforcement, the Center may delay its investigation temporarily while an external law enforcement agency is gathering evidence. The Center will resume its investigation when notified that law enforcement has completed the evidence-gathering stage of its criminal investigation. The Center may also provide some or all of its case information, documentation, or evidence to law enforcement.

## **G. Statute of Limitations or Other Time Bars**

The Center assesses a Participant's fitness to participate in sport. As past conduct informs current fitness, no criminal, civil, or rules-based statutes of limitations or time bars of any kind prevent the Center from investigating, assessing, considering, and adjudicating any relevant conduct regardless of when it occurred.

## **H. Methods of Resolution**

### **1. Administrative Closures**

The Center, in its discretion, may administratively close a matter. This may be done as a result of insufficient evidence, a Claimant(s) who elects not to participate in the resolution process, or other factors as determined by the Center. The Center may, upon receipt of new information or evidence, or a change in circumstances, reopen the matter for further investigation.

### **2. Informal Resolution**

A Respondent may, at any time before a matter is final, elect to resolve allegations of Prohibited Conduct by accepting responsibility for a policy violation. A Participant's doing so provides for the opportunity to informally resolve the matter, and the Center will determine the appropriate sanction. An informal resolution is not a settlement, but does constitute a final and binding disposition of the matter. The outcome and sanctions of an informal resolution may be published by the Center.

### **3. Formal Resolution**

A Formal Resolution occurs after the Center has completed an investigation and issues its Decision. A Respondent may request a hearing of the Center's Decision if a violation is found.

## **I. Participation**

### **1. Parties**

The parties to an investigation and arbitration are the Center and the Respondent. During the investigation, the Claimant and Respondent will have an opportunity to submit information and relevant evidence, to identify witnesses who may have relevant information, and to submit questions that they believe should be directed by the investigator to each other or to any witness.

Neither the Claimant nor Respondent are required to participate in the investigation nor any form of resolution under these procedures. However, full cooperation and participation in the resolution process is important to ensure that all relevant information and evidence are presented so the Center can determine whether a Code violation occurred. If a Claimant or Respondent declines to cooperate or participate in an investigation, the Center will make its decision based on the available evidence; alternatively, the Center may, in its discretion, choose not to proceed.

- a. Where a Claimant declines or is otherwise unable to participate in an investigation or hearing, the Center's ability to resolve the allegations may be

limited. In such cases, the Center may pursue the report if it is possible to do so without the Claimant's participation in the investigation or resolution (e.g., where there is other relevant evidence of the Prohibited Conduct, such as recordings, corroborating reports from other witnesses, or physical evidence). Even with such evidence, however, the Center may only be able to respond to the report in limited and general ways.

- b. If during the investigative process (i.e., prior to the Decision being issued), information or evidence that is available to the Respondent, including testimonial evidence, is not provided to the investigator, such information or evidence will not be considered in determining whether a violation of the Code occurred.

### **2. Advisors**

Throughout the resolution process, Claimant(s) and Respondent(s) each have the right to choose and consult with an advisor. The advisor may be any person, including an attorney. However, a party or witness involved in the investigation or hearing, or an employee of, board member of, or legal counsel for the USOPC, an NGB, an LAO or the Center, cannot serve as an advisor.<sup>8</sup> The Claimant and Respondent may be accompanied by their respective advisors at any meeting or proceeding related to the investigation, hearing, and resolution of a report under these procedures. While the advisors may

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<sup>8</sup> This provision does not intend to interfere with the USOPC's Office of Athlete Ombuds' performance of statutorily mandated functions, nor does it contemplate the Center's Resource & Process Advis

provide support and advice to the parties at any meeting or proceeding, they may not speak on behalf of the Claimant or Respondent, or otherwise participate in such meetings or proceedings except as provided herein.

### **3. Witnesses**

Witnesses who are Participants are expected to participate and cooperate in the Center's investigation and any associated proceedings. Any witness likely to provide testimonial evidence in an Arbitration, whether in person or by affidavit or declaration, must, if requested, consent to be interviewed by the Center within a reasonable time prior to any hearing.

### **4. Claimant's Request for Anonymity**

A Claimant may request that personally-identifying information not be shared with a Respondent. The Center will seek to honor the Claimant's request(s) if it is possible to do so while also protecting the health and safety of the Claimant and the sporting community. However, the Center may not be able to proceed with an investigation or resolution of a matter if a Claimant requests anonymity.

### **5. Privacy**

The Center is committed to protecting the privacy of all individuals involved in the investigation and resolution of reported allegations. With respect to any report under these procedures, the Center, in its discretion, will make reasonable efforts to protect the privacy of individuals involved in the Center's

process, while balancing the need to gather information to assess a report and to take steps to eliminate Prohibited Conduct.

Information will be shared as necessary with Center staff and counsel, witnesses, and the parties. It may also be necessary for the Center to notify the NGB or the USOPC (a) of an allegation involving a Participant from that organization; (b) if the Center implements a temporary measure; (c) of procedural status updates; and (d) of any sanctions.

#### *Parental/Guardian Notification*

The Center reserves the right to notify guardians of Claimants regarding any health or safety risk.

### **J. Procedural Rights of Respondents**

Federal law provides Respondents with certain procedural rights. 36 USC § 220541(a)(1)(H). For any action taken against a Respondent, including an investigation, the imposition of sanctions, or any other disciplinary action, the Center must provide procedural due process to the Respondent, which includes:

1. The provision of written notice of allegations against the Respondent;
2. The right to be represented by counsel or other advisor;
3. An opportunity to be heard during the investigation;
4. A reasoned written decision from the Center if a violation is found;
5. The ability to challenge through arbitration any temporary measures or sanctions imposed by the Center.

Federal law permits the Center to impose temporary measures or sanctions before providing an opportunity to arbitrate. 36 USC § 220541(a)(2)(A).

**K. Recordings**

No audio or video recording of any kind is permitted during interviews or meetings, except as authorized and conducted by the Center.

**L. Prior or Subsequent Conduct**

Prior or subsequent conduct of the Respondent may be considered for any purpose, including in determining pattern, knowledge, intent, motive, or absence of mistake. For example, evidence of a pattern of Prohibited Conduct by the Respondent, either before or after the incident in question, regardless of whether there has been a prior finding of a Code violation, may be deemed relevant to determining responsibility for the conduct under investigation. Determining the relevance of pattern evidence will be based on an assessment of whether the previous or subsequent conduct was substantially like the conduct under investigation or indicates a pattern of similar Prohibited Conduct.

Evidence relating to other sexual behavior or the sexual predisposition of the Claimant cannot be considered in any decision, nor admitted as evidence in any arbitration, unless the probative value of the use or admission of such evidence, as determined by the Center or the arbitrator, as applicable, substantially outweighs the danger of—

- (i) any harm to the alleged victim; and
- (ii) unfair prejudice to any party.

**M. Relevance**

The Center has the discretion to determine the relevance of any proffered evidence. In general, statements of opinion as to any person’s general reputation for any character trait, rather than direct observations or reasonable inferences from the facts, will not be considered.

**N. Investigation Report**

A final Investigation Report will be prepared that sets forth the investigator’s findings of fact. This report will be shared with the Claimant(s) and Respondent(s) upon issuance of the Decision. The Investigation Report and any attachments are considered confidential.

**O. Decision**

The Center will determine whether there is sufficient information, by a preponderance of the evidence, to support a finding that Respondent violated the Code. If there is a finding that the Respondent violated the Code, the Decision will note the violation and identify an appropriate sanction(s). The Claimant and Respondent will be notified of the Decision. Such Notice of Decision will set forth any violation(s) of the Code, as supported by the rationale set forth in the Decision and Investigation Report; the sanction(s) imposed against the Respondent (if applicable); and the rationale for any sanction(s) imposed. The Notice of Decision is considered confidential; however, the outcome reflected in the Decision—including whether a violation was found, the nature of the underlying misconduct, and any

sanctions imposed—is not.

**P. Requesting a Stay of the Sanction(s)**

At any time, the Center—on its own or at the request of a Respondent—may stay a sanction(s). Whether to stay a sanction(s) is within the Center’s sole discretion and is not reviewable.

**Q. Requesting Arbitration Hearing**

Upon issuance of a Decision, a Respondent has ten Days to request a hearing before an arbitrator. If Respondent does not make such a request within ten Days, the Decision is no longer subject to review, except as permitted herein. If a Respondent timely requests that the Center grant an extension of time to request an Arbitration, the Center may, in its discretion, grant such request.

**R. Reopening a Matter**

At any time, the Center—on its own or at the request of a Claimant or Respondent—may reopen a matter based upon new evidence that was previously unavailable or a change in circumstances that could substantially impact the original finding or sanction. Whether to reopen a case is within the Center’s sole discretion and is not reviewable.

**S. Confidentiality – Release/Use of Materials**

The Center’s decisions, investigation reports, and other work product are confidential under 36 USC § 220541(f)(4)(C). The following documents or

evidence related to the response and resolution process must remain confidential, in that they may not be disclosed outside of the proceedings, except as may be required by law or authorized by the Center: the Notice of Decision; the Investigation Report and any documents or evidence attached thereto, including interview statements of a Claimant, Respondent, or other witnesses; any audio recordings or transcripts of those recordings created as part of the investigative process; all documents or evidence submitted to or prepared by the arbitrator, including any hearing transcripts. Violation of this provision, including by an advisor for an involved party, may constitute an Abuse of Process.

While the physical documentation must remain confidential, the relevant NGB or the USOPC, or its affiliates may disclose the outcome of the matter, including the Summary of Decision, to those parties or organizations with a need to know so that the outcome can be properly effectuated or understood.

Additionally, subject to the Abuse of Process provision (including the prohibition on identifying a Claimant), the Center does not impose any restrictions on a Claimant’s or Respondent’s ability to discuss the incident, their participation in the Center’s process, or the outcome of that process.

If any person or entity misrepresents the process, the underlying facts, or the outcome of a matter, the Center reserves the right to publicly correct the record.

**XII. TEMPORARY MEASURES**



## **A. By the Center**

### **1. Timing**

The Center may implement Temporary Measures at any time. A Temporary Measure shall be effective immediately upon notice, unless stated otherwise. Temporary Measure(s) will remain in effect until the Center expressly removes the Temporary Measure(s).

### **2. Standard**

When implementing a temporary measure, the Center evaluates whether (i) the measure is reasonably appropriate based on the seriousness of the allegations and the facts and circumstances of the case; (ii) the measure is reasonably appropriate to maintain the safety or well-being of the Claimant, other Athletes, or the sport community; or (iii) the allegations against the Respondent are sufficiently serious that the Respondent's continued participation in the sport could be detrimental to the best interest of sport and those who participate in it.

When the allegations involve child sexual abuse, the age of those allegations is not relevant to this determination.

### **3. Remedies**

Temporary measures may include, but are not limited to, altering training schedules, providing or requiring chaperones, implementing contact limitations, implementing measures prohibiting one-on-one interactions, and suspensions from participation in

some or all aspects of sport activity. If measures require monitoring or chaperoning, the Respondent may be required to locate, arrange and pay for some or all of those services as a condition of continued participation pending completion of the investigation.

### **4. Review by Arbitrator**

In all instances when a Temporary Measure materially affects the opportunity to participate (e.g., suspension), the Participant may challenge the measure by requesting an Arbitration, in accordance with Arbitration Rule 40.

### **5. Modifiable**

The Center may modify a Temporary Measure at any time.

### **6. Failure to Comply with Temporary Measures**

Failure to comply with a Temporary Measure constitutes an independent violation of the Code.

## **B. By the USOPC, NGB, or LAO**

Upon the Center's issuance of a Notice of Exercise of Jurisdiction, any temporary measures previously imposed by the USOPC, NGB, or LAO will be automatically and immediately adopted by the Center as its own, and will be applicable throughout all Olympic, Paralympic, Pan American and Para Pan sports in the United States, and will remain in effect unless and until the Center modifies those measures.

### **XIII. SANCTIONS**

Where there is sufficient evidence through the resolution procedure to support a finding that a Participant violated the Code, the Center will determine whether or the extent to which a Participant may participate in sport and may impose one or more sanctions. Different incidents constituting a violation of the same policy may arise out of markedly different circumstances, including various case-specific aggravating or mitigating factors.

#### **A. Sanctions**

One or more of the following sanctions may be imposed singularly or in combination:

- *Written warning*  
An official, written notice and formal warning that a Participant has violated the Code and that more severe sanctions will result should the Participant be involved in other violations.
- *Probation*  
A specified period of time during which, should any further violations of the Code occur during the probationary period, it will result in additional disciplinary measures, likely including a period of suspension or permanent ineligibility. This sanction can also include loss of privileges or other conditions, restrictions, or requirements.
- *Suspension or other eligibility restrictions*  
Suspension for a specified period of time from participation, in any capacity, in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of the

USOPC, any NGB, or any LAO, or at a facility under the jurisdiction of the same. In the Center's discretion, a suspension may include restrictions or prohibitions from some types of participation but allowing participation in other capacities.

A suspended Participant is eligible to return to sport after the suspension lapses, but reinstatement may be subject to certain restrictions or contingent upon the Participant satisfying specific conditions noted at the time of suspension.

- *Ineligibility*  
Ineligibility to participate until further notice, in any capacity, in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of the USOPC, any NGB, or any LAO, or at a facility under the jurisdiction of the same. Ineligibility is typically imposed when a Respondent has pending charges, in violation of the Criminal Charges or Disposition provision.
- *Permanent Ineligibility*  
Permanent ineligibility to participate, in any capacity, in any program, activity, Event, or competition sponsored by, organized by, or under the auspices of the USOPC, any NGB, or any LAO or at a facility under the jurisdiction of the same.
- *Other discretionary sanctions*  
The Center may, in its discretion, impose other sanctions for Prohibited Conduct, including, but not limited to, other loss of privileges, no contact directives, requirement to complete educational or other programs, or other restrictions or conditions as deemed necessary or appropriate.

## **B. Considerations**

Factors relevant to determining appropriate sanctions include, without limitation:

1. The Respondent's prior history;
2. A pattern of inappropriate behavior or misconduct;
3. The ages of individuals involved;
4. Whether the Respondent poses an ongoing or potential threat to the safety of others;
5. Respondent's voluntary disclosure of the offense(s), acceptance of responsibility for the misconduct, and cooperation in the Center's process;
6. Real or perceived impact of the incident on the Claimant, the USOPC, NGB(s), LAO(s), or the sporting community;
7. Whether given the facts and circumstances that have been established, continued participation in the Olympic & Paralympic Movement is appropriate; or
8. Other mitigating and aggravating circumstances.

Any single factor, if severe enough, may be sufficient to justify the sanction(s) imposed.

## **C. Publication**

The Center is required under 36 USC § 220541(a)(1)(G) to maintain a publicly-available searchable database of Participants whose eligibility has in some way been restricted by the Center, the USOPC, an NGB, or an LAO.

## **XIV. ARBITRATION RULES**

### **1. Application**

These Rules shall apply to arbitrations arising out of the Code. No other arbitration rules shall be applicable. Each Participant, by virtue of membership, affiliation, or participation or other activity making them subject to the jurisdiction of the Center, agrees to abide by and be subject to these Arbitration Rules as the sole and exclusive method of resolving any challenge to the Center's eligibility decision(s) or the Center's processes.

### **2. Scope**

Arbitration shall resolve whether a Respondent violated the Code and the appropriate sanction.

### **3. Arbitrator Qualifications**

The pool of arbitrators for the Center's cases shall consist of individuals who are U.S. citizens and meet the SafeSport Arbitrator Qualifications (Exhibit 2), as determined by the arbitration body. All arbitrators in the Center's arbitrator pool will receive specialized training.

### **4. Parties**

The parties to the Arbitration will be the Center and the Respondent. A reference to the parties, the Center, the Respondent or the Claimant will include any parent or guardian of a Minor, unless otherwise stated herein.

### **5. Advisor**

A Claimant or Respondent may have a single advisor, at

that party's own expense. The advisor may but need not be an attorney.

The Respondent's advisor, if any, may participate in the pre-hearing conference, confer with the Respondent during the hearing, clarify procedural questions, present opening and closing arguments on behalf of the Respondent, suggest questions to the Respondent and the arbitrator during witness examinations, or to the extent direct examination by the parties is permitted, question witnesses on behalf of the Respondent.

A Claimant or Respondent intending to have an advisor shall notify the Center 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.

## **6. Confidentiality**

The arbitration, including all pre-hearing matters, shall be subject to the confidentiality provisions set forth in the Code and other confidentiality policies adopted by the Center.

## **7. Initiating Arbitration**

After receiving a request for an Arbitration hearing, the Center will send a notice to the Respondent 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 Center; (iii) the recipient's confidentiality obligations; and (iv) that any recipient who violates confidentiality obligations shall be subject to the jurisdiction of the Center and may be held, after proper process, to have violated the Code. The Arbitration will be deemed initiated upon receipt by the administrator of the necessary fees.

## **8. Number of Arbitrators**

There shall be one arbitrator.

## **9. Arbitrator Appointment – Merits Arbitration**

- a. Promptly after Arbitration is initiated, the Arbitration body will send simultaneously to Respondent and the Center 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.
- b. Within 48 hours after receiving the arbitrator list, the Center and the Respondent each may strike the names of up to two 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.
- c. From among the persons not stricken by the parties, 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.

### **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.

### **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 in the position statement and shall be decided at or before the commencement of the hearing.

#### **b. Conflicts of interest**

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.

The arbitration body shall communicate any information concerning a potential conflict of interest to the relevant parties and, as appropriate, to

the arbitrator.

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 the arbitration body shall select a substitute arbitrator from the remaining attorneys or retired judges not stricken by the parties. 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.

### **12. Vacancies**

If an arbitrator is no longer able to hear a case for which the arbitrator has been appointed, the arbitration body shall select a substitute arbitrator from the remaining attorneys or retired judges not stricken by the parties. 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.

### **13. Submissions to and Communication with Arbitrator**

Except as provided herein, 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 and, when appropriate, *ex parte* submission of witness questions) shall simultaneously be provided to the other party or parties to the arbitration.

### **14. Hearing Concerning Sanctions and Criminal Charges or Dispositions**

If a Respondent requests a hearing concerning only the Center's sanctions, or regarding a Criminal Charge or Disposition, the following Rules apply:

#### **a. Scope**

The violation and the underlying facts will be deemed established and irrebuttable. The arbitrator will determine whether the Center's sanctions are appropriate given the facts and circumstances, as established.

#### **b. Standard of review**

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

#### **c. Briefing**

Within ten Days of the arbitrator's appointment, the Respondent shall file a position statement setting forth the basis for the challenge to the sanction. Within seven Days of the Respondent's filing, the Center shall file its position statement.

#### **d. Oral argument**

The decision shall be based on the parties' briefs and the 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 Days from briefing, or if oral argument is allowed, within five Days of oral argument.

### **15. Procedural Due Process**

The SafeSport Code and 36 USC § 220541(a)(1)(H) provide a Respondent with certain procedural due process protections. A Respondent who alleges violations of these rights can raise the claim before the arbitrator only if the Respondent has previously informed the Center of the alleged violation and given the Center an opportunity to cure the violation. An arbitrator can order a party to take any reasonable steps necessary to cure the violation, except for dismissal of the action.

### **16. Pre-Hearing Conference**

#### **a. The arbitrator shall schedule as soon as practicable**

- a preliminary pre-hearing conference with the parties by telephone or video conference, but no sooner than four Days and no later than 10 Days after the arbitrator is appointed.
- b. At least two Days before the pre-hearing conference, the Respondent shall provide the Center and arbitration body with a written answer to the Center's Decision against them (to include a written statement containing Respondent's summary of the factual rebuttal to the violation and the defenses the Respondent intends to raise at the arbitration) and the documentary evidence and witnesses that the Respondent intends to present at the hearing, including a short summary of the expected testimony of such witnesses.
    - i. If the Respondent fails to submit the required information and then later attempts to call a witness or introduce documentary evidence, including affidavits or declarations, at the hearing not provided in the answer, the Arbitrator, upon request of the Center, must either (i) preclude the witness or documentary evidence from admission at the hearing, or (ii) postpone the hearing at Respondent's expense so that the Center can interview the witness or review the evidence.
    - ii. If a proposed witness refuses to be interviewed by the Center, the Arbitrator shall preclude the witness from testifying or otherwise providing evidence at the hearing.
  - 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:
    - iii. The timeline for the exchange of position statements, list of evidence, and list of witnesses. The position statement shall address any expected evidentiary issues, challenges to jurisdiction, and any other disputed issues.
    - iv. The scheduling and logistics of the hearing, to include without limitation the amount of time each side will have to present its evidence. Absent exceptional circumstances, the arbitrator will 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.
    - v. The arbitrator shall issue a written decision that memorializes decisions made and agreements reached during or following the pre-hearing conference.

## **17. Discovery**

Respondents will receive from the Center a Notice of Decision, Investigation Report, and any exhibits to the Investigation Report, redacted for any personally identifying information. There shall be no additional discovery.

## **18. Date and Time of Hearing**

The arbitrator shall use best efforts to ensure that the hearing is completed and the decision rendered within 15 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 arbitrator, in the arbitrator's 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 Center to adhere to the timelines set forth herein shall not be grounds for overturning the arbitrator's decision.

## **19. Place of Hearing**

The hearing will be conducted telephonically or by videoconference except as authorized by the arbitrator in extraordinary 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 Claimant(s) or witness(es) to appear behind screens, by telephone or via videoconference. For all hearings, whether in person, telephonically, or by videoconference, the seat of the arbitration shall be Denver, Colorado.

## **20. Attendance**

Unless the arbitrator and the parties agree otherwise, only the following individuals shall be present at the hearing: (1) the Center's representatives; (2) the

Respondent; (3) the Claimant(s); (4) the Claimant(s) and Respondent's respective advisors; and (5) witnesses during their own testimony.

## **21. 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.

## **22. 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 and approved by the Center.

## **23. Continuance**

The arbitrator may continue any hearing upon agreement of the parties, upon request of a party or upon the arbitrator's own initiative. Unless agreed, 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.

## **24. Arbitration in the Absence of a Party or Advisor**

Subject to Section XI(J), 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.

## **25. Standard of Proof**

The Arbitration shall use a preponderance of the evidence standard to determine if a Participant has violated the Code.

## **26. Rules of Evidence**

- a. Strict conformity to legal rules of evidence shall not be necessary, and hearsay evidence may be considered.
- b. The Center's Decision and Investigative Report with Appendices shall be admitted into evidence and the arbitrator shall give them 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 shall take into account applicable principles of privilege, including without limitation those involving the confidentiality of communications between an attorney and client and between a physician and patient.
- e. Any statement from a Minor, be it written, recorded or live, and whether direct or hearsay, shall be admissible.
- f. Evidence relating to other sexual behavior or the

sexual predisposition of the Claimant cannot be admitted as evidence in any arbitration unless the probative value of the use or admission of such evidence, as determined by the arbitrator, substantially outweighs the danger of—

- (i) any harm to the alleged victim; and
- (ii) unfair prejudice to any party.

## **27. 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.

## **28. Hearing**

Unless the parties agree that the arbitrator can determine the case without an oral hearing and on written briefing 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 Center or its advisor shall present its opening statement first, followed by the Respondent.

c. Presenting evidence

Both the Center and the Respondent 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 Center will present its evidence first. The Respondent will present its evidence second. The Center may then present any rebuttal evidence.

d. Examining witnesses

1. The Claimant shall be subject to questioning by only the arbitrator unless the Claimant agrees to direct examination and cross-examination by the opposing party.
2. Unless the Claimant elects to be questioned directly by the parties, no later than five Days before the hearing, the Center and the

Respondent each may submit, *ex parte* to the arbitrator, proposed questions and lines of inquiry for the questioning of the Claimant. 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 Claimant, then after the arbitrator's direct questioning of the Claimant 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 ask follow-up questions of the witness that the arbitrator deems appropriate.
4. The parties may 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, the age or mental capacity of the witness, 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 (or in extraordinary circumstances, without such permission), 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 a matter can be properly adjudicated 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 Claimant

The Claimant 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 Center will present its closing statement first, followed by the Respondent, and the Center will be allowed time for a reply.

g. Hearing closed to the public

The hearing shall be closed to the public.

i. No disclosure of information

All documentary information obtained by the Center, Respondent, or the Claimant exclusively through the arbitration, including the arbitral decision, shall be deemed confidential not to be disclosed outside of the Center's process except as expressly provided herein.

ii. Recording

At the request of any party or the arbitrator, hearings shall be recorded by the arbitration body and retained by the Center in its confidential files, but shall not be made available to any party or third party except as determined by the Center or any lawful order of a Court. The requesting party is responsible for arranging and paying for the recording.

h. Closing of Hearing

- i. 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.
- ii. 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.

**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 to such noncompliance.

**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.

**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.

**32. Decisions**

a. 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 Days from the date of close of the evidence or any briefing ordered by the arbitrator. To allow the Center sufficient time to arrange to share the outcome with the Claimant(s), the arbitration body will initially transmit the decision to the Center. Four hours later, the Center shall share the outcome with the Claimant(s) and the arbitration body shall

transmit the decision to the Respondent(s).

b. 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 Claimant (including name), and witnesses (other than the Respondent) shall be redacted. If the arbitrator determines that there has been no violation, then the Respondent may request that the arbitrator redact their name or identifying information in the final decision.

c. 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.

d. Delivery to parties

The final decision shall be deemed delivered to the parties if transmitted as provided in these Rules.

### 33. Modifying Decision

Within three 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, only 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 Days to respond to the request. The arbitrator shall dispose of the request within two Days after transmittal

by the arbitration body to the arbitrator of the request and any response thereto.

### 34. No Appeal

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

### 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

i. Arbitration fees and expenses

The Respondent shall pay a full deposit for all fees and expenses associated with the arbitration as set forth in Exhibit 1. If, within 30 calendar days of the request for arbitration, the Respondent fails to provide the deposit, the Center or the arbitration body will issue a notice of failure to pay. If payment is not made within five Days after the notice of failure to pay is issued, or an extension is not granted, then the opportunity to request arbitration lapses and the Decision is final.

ii. Hardship exemption

Respondents may, at the discretion of the Center,

obtain a hardship exemption from payment of some of these fees through written certification that they have insufficient funds to cover arbitration.

### **36. Other Fees and Expenses**

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

### **37. Arbitrator's Compensation**

Arbitrators shall be compensated at the rates set forth in the arbitration fee schedule (Exhibit 1).

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.

### **38. Allocating Fees and Expenses**

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

- a. If a violation is not found, the Center shall reimburse the Respondent for all arbitration fees and expenses paid to the arbitration body, pursuant to Exhibit 1, below.

- b. 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.
- c. 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 between the Center and the Respondent.

### **39. Interpreting and Applying These Rules**

The arbitrator shall interpret and apply these Rules insofar as they relate to the arbitrator's powers and duties.

### **40. Temporary Measures**

The following Rules govern Temporary Measures hearings.

#### **a. Timing**

At any time after Notice of a Temporary Measure, when those temporary measures materially affect the opportunity to participate (e.g., suspension), Respondent may request a hearing which shall take place no later than 72 hours after the Respondent submits the required fees or at such time as the parties otherwise agree.

#### **b. Arbitrator**

If the Center imposes or seeks to impose Temporary Measures before the appointment of a merits

arbitrator on a Decision, then a special arbitrator will be appointed by the arbitration body solely to conduct the Temporary Measures hearing. This special arbitrator shall not be considered for appointment to review a final Decision. If the Center imposes or seeks to impose Temporary Measures after the appointment of an arbitrator for review of a Decision, then the appointed arbitrator shall conduct the Temporary 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 Center shall pay a deposit of \$2,000.00 for the fees and expenses and the Respondent shall pay \$600.00 for the fees and expenses associated with a Temporary Measures arbitration as set forth in Exhibit 1. The Respondent shall not be responsible for filing fees if qualifying for a Hardship Exemption.

d. Procedures

i. Expedited proceedings

The Temporary Measures hearing is an expedited proceeding to quickly resolve whether sufficient evidence exists to satisfy the arbitrator that the temporary relief requested is appropriate based on the known facts and circumstances of the case at the time of the hearing. The Temporary Measures hearing is not intended to be the hearing necessary to finally resolve

whether the Respondent has committed a violation or what the appropriate sanctions should be if a violation is found to have occurred.

ii. Pre-hearing Conference

The arbitrator shall hold a brief pre-hearing conference solely to address scheduling of the hearing.

iii. Position Statements

The Center and Respondent may each submit a position statement of no more than five pages setting forth the basis for their respective positions. Each party may also present such evidence as it deems necessary. The position statement may also address jurisdictional objections or allegations that the Center failed to follow its procedures. All other issues and objections, if any, are reserved and preserved for a hearing on the final Decision.

iv. Length of Hearing

Except in exceptional circumstances, the Temporary Measures hearing will last no longer than two hours.

e. Standard of review

To affirm Temporary Measures, the arbitrator must find based on the evidence presented, that: (i) the measure is reasonably appropriate based on the seriousness of the allegations and the facts and circumstances of the case; (ii) the measure is reasonably appropriate to maintain the safety or

well- being of the Claimant, other Athletes, or the sport community; or (iii) the allegations against the Respondent are sufficiently serious that the Respondent's continued participation in the sport could be detrimental to the best interest of sport and those who participate in it. In all cases, there shall be a rebuttable presumption that the allegations, as presented, are true. When the allegations involve child sexual abuse, the age of those allegations is not relevant to this determination.

f. Decision

The arbitrator may approve, reject, or modify the Temporary Measures imposed or proposed by the Center. The arbitrator shall issue a decision regarding the Center's request for Temporary Measures either orally at the conclusion of the hearing, with a written reasoned order to follow, or by a written reasoned decision issued within 24 hours of the close of the Temporary Measures hearing. The decision is inadmissible and shall be given no weight in an arbitration on the final Decision, if any.

g. No appeal

Neither the Center nor the Respondent may appeal the arbitrator's decision. The denial of the requested relief shall not, however, prejudice the Center's right to seek Temporary Measures in the same case in the future based on information or evidence not previously in the Center's possession. In such cases, the Respondent will be offered another hearing.



**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 April 1, 2023.

\$5,200.00 Single arbitrator for a single hearing day. Additional hearing days will be billed to the U.S. Center for SafeSport at \$650 per hour.

\$2,600.00 Single arbitrator, temporary measures hearing:

- A deposit for the full price of JAMS fees and neutral rates is due at the time an Arbitration is requested. Any refunds are subject to the cancellation/continuance policy listed below.
- Applicable arbitrator travel costs will be charged.
- The above fees exclude usage of facilities. A room rental fee not to exceed \$300/day will be charged.

**CANCELLATION/CONTINUANCE POLICY**

<i>Cancellation/Continuance period</i>	<i>Fee</i>
14 or more calendar days prior to hearing	<ul style="list-style-type: none"><li>• Arbitration, single arbitrator, 50% is refundable</li><li>• Temporary Measures Hearing, non-refundable</li></ul>

- 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.

***Exhibit 2***  
**SafeSport Arbitrator Qualifications**

**INDEPENDENCE**

Each arbitrator shall be independent. An arbitrator is “independent” if (a) the individual has no current, material affiliation or relationship, directly or indirectly, with the United States Center for SafeSport, the United States Olympic & Paralympic Committee (USOPC), any National Governing Body (NGB), any Paralympic Sports Organization (PSO), the Athletes Advisory Council of the USOPC (AAC), 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*, or
- Other comparable working experience.