Report to USA Gymnastics on Proposed Policy and Procedural Changes for the Protection of Young Athletes

SUBMITTED BY

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WITH ASSISTANCE FROM **Praesidium**

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INTRODUCTION

Background Leading to Commissioning of Review

USA Gymnastics is the National Governing Body for gymnastics under the umbrella of the U.S. Olympic Committee. Since the 1980s, based on reports of physical, emotional and/or sexual abuse of young athletes participating in the sport, USA Gymnastics has made a number of significant policy changes intended to protect the young athletes who compete in its sanctioned events, as well as those who engage in intensive training in the hope of qualifying for such competition.

However, in recent years, a number of troubling reports have surfaced of young women allegedly abused by persons affiliated with USA Gymnastics as members or contractors over a lengthy period of time, including allegations that USA Gymnastics was not sufficiently responsive in disciplining offenders and terminating their access to young gymnasts. While individual USA Gymnastics staff members have perceived themselves as having been vigilant in protecting children, within the boundaries they perceived as limiting their authority to control others' behavior, it has become clear that more is needed.

For that reason, in late 2016, USA Gymnastics engaged Deborah J. Daniels, Managing Partner of Indianapolis-based Krieg DeVault LLP and a former federal prosecutor, to conduct an independent review of USA Gymnastics' bylaws, policies, procedures and practices related to handling sexual misconduct matters.

It should be noted at the outset of this report that there are thousands of gymnastics clubs throughout the United States, peopled with tens of thousands of dedicated coaches, staff and volunteers, in addition to judges and others within and outside USA Gymnastics, whose entire focus is on serving and protecting the young athletes who are entrusted to their care.

Further, there are tens of thousands of young men and young women who benefit tremendously by their involvement in gymnastics. Particularly in the case of young girls, gymnastics contributes significantly to their physical and emotional development at a young age; builds self-confidence; and prepares them well for life. Gymnastics is a wonderful sport, loved and supported even by those who have reported abuse suffered by themselves or others during their careers. The sport does a great deal of good for a significant number of young people who grow into successful adults in great part because of their gymnastics experience while young.

The vast majority of adults associated with gymnastics training and competition are well-meaning, supportive and fiercely protective of the young athletes in their charge. However, it is essential for the preservation of the good that gymnastics does that a thorough analysis be conducted and recommendations be made for improvements in the conduct of training and competition on the part of every adult associated with the sport. These improvements are essential in order to enhance the safety of the many young lives in the care of those adults, and to protect them, to the greatest extent possible, from the harm perpetrated by a few predators who have managed to infiltrate the sport or who may seek to do so in the future.







Principal Investigator: Deborah J. Daniels, Esq.

Ms. Daniels has a lengthy history in law enforcement and, more specifically, as an advocate for children. In the 1980s, as Chief Counsel to the Marion County (Indianapolis, Indiana) Prosecuting Attorney, she supervised the Sex Offense and Child Abuse Division of the office, trying many cases herself and contributing to the work of the National Center for the Prosecution of Child Abuse, a subsidiary of the National District Attorneys Association. During her tenure, she chaired a multi-disciplinary team for the protection of children, involving child protection service providers, law enforcement and medical providers. She established the inaugural Child Advocacy Center in Indianapolis, modeled on the original Child Advocacy Center in Huntsville, Alabama.

Ms. Daniels served from 1988-1993 as the Presidentially-appointed United States Attorney for the Southern District of Indiana. She continued to pursue child protection efforts, including the establishment of an initiative to prosecute child pornography cases through the U.S. Attorney's Office. Several years later, as Assistant Attorney General for the Office of Justice Programs, U.S. Department of Justice, she supervised the work of, among other agencies, the Office on Violence Against Women, the Office for Victims of Crime and the Office for Juvenile Justice Delinquency and Prevention (which includes within its purview the work of the Department of Justice in relation to child abuse prevention). She worked closely with the National Center for Missing and Exploited Children and served as the first National Amber Alert Coordinator, working with multiple agencies to develop a strategic national rapid-response approach relating to child abduction. Her current work with the law firm of Krieg DeVault LLP focuses on internal investigations.

Praesidium

In order to conduct an extensive review and analysis of the gymnastics community and culture, as well as how the policies of USA Gymnastics might be amended in order to improve its ability to protect young athletes, Ms. Daniels has partnered with Praesidium. ¹

Praesidium specializes in preventing sexual abuse in organizations that serve youth and vulnerable adults. Over a period in excess of 25 years, the company has reviewed over 4,000 cases of abuse within organizations to determine the root causes of sexual abuse within organizational settings. Praesidium employs more than 40 staff, including licensed social workers, lawyers, psychologists, health care researchers and other experts.

The company has served over 5,000 clients with a broad range of products and services to aid organizations in preventing abuse, including online and instructor-led trainings; organizational risk assessments; model policies; incident investigations; and litigation support.

Having trained more than one million people online and hundreds of thousands in person, Praesidium is the largest and most comprehensive sexual abuse risk management firm globally.

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¹ https://website.praesidiuminc.com/wp/.



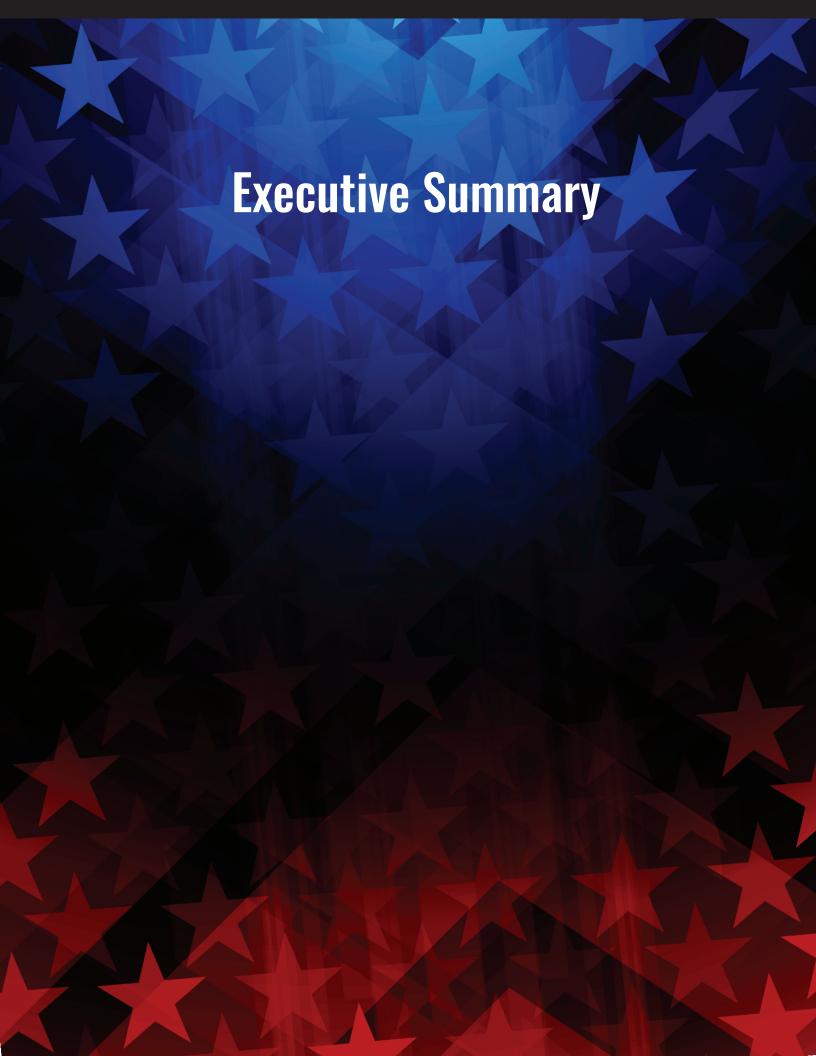




Conduct of the Review

The methodology of the review is described herein. A great deal of information was reviewed, not only documentary information but also insights obtained as a result of oral interviews of over 160 individuals. None of those individuals has been quoted directly in the report, for deliberate reasons. In order to encourage frank discussion, all interviewees were promised anonymity, in the sense that none of their remarks would be attributed to them. The only individuals whose statements have been attributed directly to them either testified publicly, wrote publicly and/or submitted to published interviews about their experiences.

The reviewers have done their best to develop recommendations that, while ambitious, are capable of accomplishment by USA Gymnastics in the interest of protecting children. The road ahead is not an easy one: there are a significant number of recommendations in this report that will require a great deal of time and collaborative effort to execute effectively. However, the reviewers feel strongly not only that the recommended actions are capable of achievement, but also that they are essential to the ability of the many dedicated adults involved in a beloved sport to protect the young lives they hold so dear.









EXECUTIVE SUMMARY

In late 2016, USA Gymnastics engaged Deborah J. Daniels, Managing Partner of Indianapolis-based Krieg DeVault LLP and a former federal prosecutor, to conduct an independent review of USA Gymnastics' bylaws, policies, procedures and practices related to handling sexual misconduct matters, and to make recommendations for improvement in the interest of protecting young athletes from abuse. For purposes of the review, Daniels partnered with Praesidium, a company that specializes in preventing sexual abuse in organizations that serve youth and vulnerable adults.

Beginning in early 2017, Daniels and Praesidium conducted over 160 combined interviews of the following individuals: USA Gymnastics leadership and staff, former USA Gymnastics leadership, USA Gymnastics Board Members, USA Gymnastics professional and instructor members, club owners, meet directors, National Team staff and coaches, past athletes, parents of athletes, United States Olympic Committee leadership, US Center for SafeSport leadership, Safe Sport advocates, Congressional staff members, and law enforcement representatives. The team visited the following locations: the national office of USA Gymnastics; 25 site visits to member clubs; 5 gymnastics competitions ("meets"); and the USA Gymnastics National Team Training Center at the Karolyi Ranch. Throughout the review process, Daniels and Praesidium conducted a thorough data collection and analysis of USA Gymnastics policies and procedures.

USA Gymnastics has a history dating back to the 1980s of implementing athlete protection measures. In fact, USA Gymnastics was one of the first sports to initiate practice and policies aimed at protecting its athletes, its coaches and the National Governing Body as a whole. For example, it was reportedly the first Olympic National Governing Body (NGB) to create a list of those permanently ineligible for membership. However, over time, the practices of USA Gymnastics have not kept up with best practices in the field of child abuse protection, allowing for significant gaps and exposures regarding the prevention and reporting of child sexual abuse within the sport. Recent media articles describing allegations of abuse and of insufficient response on the part of USA Gymnastics; the allegations against Dr. Larry Nassar and other USA Gymnastics members or former members; the brave, outspoken former athletes and victims of alleged abuse; and proposed new federal legislation all suggest the need for a significant cultural change within the sport. Such a change would highlight what most individuals within the sport already know and practice: athlete safety and athlete success are complementary, not competing, demands; and the protection of athlete safety must be the top priority of USA Gymnastics and its member clubs.

Cultural change is not an overnight process; it requires an intentional, comprehensive plan involving the organization's Board, leadership, members and often outside subject matter experts. It is imperative that USA Gymnastics create such a plan to effectively and efficiently address the specific findings and recommendations detailed within this report.

Praesidium utilizes the following framework to assist organizations in creating a culture where every day, every individual contributes to abuse prevention and overall safety:

- A strong voice from the top of the organization
- · Clear standards of care and behavior
- Provision of sufficient resources to assist in maintaining the standards
- Accountability







A Strong Voice from the Top of the Organization: Committing to Action

To set the tone for the entire sport, the words and deeds of the USA Gymnastics Board of Directors (Board) and the administrative leadership must embody a culture of protection. In the past, the USA Gymnastics commitment to protecting the safety of the athletes has been questioned by various sources – the media, member clubs, the United States Olympic Committee, and others. To combat these doubts, the leadership must act swiftly, yet deliberately.

Appointing a Director of Safe Sport is one step towards accomplishing this goal, and that process is currently underway within USA Gymnastics. This individual, under the supervision of the USA Gymnastics Board of Directors and administrative leadership, must develop a strategic plan including specific goals, objectives, action steps, roles, responsibilities, and a time line for addressing the recommendations listed within this report. In the past, USA Gymnastics has taken a piecemeal and largely ineffective approach to abuse prevention by adding various documents, webinars, and policy updates to its website. Moving forward, USA Gymnastics leadership must take an active role in ensuring that all materials distributed fall within the overarching framework of the newly developed Safe Sport program, and that there is a clear understanding in the field not only of the policies, but also of the consequences, for failure to abide by them. Further, USA Gymnastics leadership must commit to taking decisive action to enforce its policies.

Clear Standards of Care and Behavior

USA Gymnastics must clearly articulate mandatory standards of behavior with regard to abuse prevention, expand the audience to which these standards apply, and provide the proper reporting channels for violations of these standards.

In the past, USA Gymnastics has required that all member clubs adopt a Participant Welfare Policy; however, it has not mandated prohibitions on specific types of behavior. USA Gymnastics has provided suggested abuse prevention policies and procedures; however, interviews with clubs and a review of their policies revealed significant discrepancy in what they have adopted, and some clubs do not even have a policy. USA Gymnastics is currently amending its Participant Welfare Policy, aligning it with the policies promulgated by the U.S. Center for SafeSport, and re-branding it the "USA Gymnastics Safe Sport Policy". The revised policy, if adopted, will require that certain standards of conduct be included in the member club policies.

For individual members, the USA Gymnastics Code of Ethical Conduct is offered as a "guide" to conduct, but not a requirement for members to follow. In addition, this guide only suggests promoting "a safe environment for participants" by not engaging in sexual relations or abuse with an athlete. The Code of Ethical Conduct does not offer clear and practical guidelines for how members should and should not interact with athletes. This results in a broad interpretation of what is considered "appropriate" or "inappropriate" conduct with an athlete and stifles the reporting of red-flag behaviors or warning signs of abuse. The Code of Ethical Conduct is not aligned with the proposed new Safe Sport Policy and is not prescriptive with respect to conduct and reporting requirements.

In order better to protect its young athletes, USA Gymnastics must strengthen and clarify what is required of individual and club members by providing succinct and organized mandatory abuse prevention policies and procedures that outline appropriate and prohibited behaviors, even if those behaviors do not rise to the level of prosecutable child abuse. The effort to revise the Participant Welfare Policy is an important step in that direction.







It must be made clear to whom reports of boundary violations, misconduct and abuse should be made, when they should be made, and how they should be made. In addition, the policies must outline how USA Gymnastics will respond once it receives a report. These policies and procedures should extend to all members (including the expanded membership as addressed by this report) and the programs governed by USA Gymnastics, including the National Team Training Center.

Not everyone who interacts with a USA Gymnastics athlete at a USA Gymnastics member club is an individual member of USA Gymnastics. For example, the requirement of membership does not now include those with an ownership interest in a member club; coaches at a member club who do not coach athletes competing in USA Gymnastics-sanctioned events; and volunteers, even those with ready and frequent access to young athletes. In order to ensure that abuse prevention policies and procedures are applicable to those who have frequent contact with athletes, these groups of individuals should be included under the jurisdiction of USA Gymnastics.

Provision of Sufficient Resources to Assist in Maintaining the Standards

USA Gymnastics must train members on the revised policies and procedures, expanded abuse prevention topics, and reporting procedures. This training must be conducted more frequently and delivered through various channels. USA Gymnastics must also provide parents and athletes with information about USA Gymnastics policies and procedures as well as how to report concerns.

Historically, USA Gymnastics has provided required and voluntary abuse prevention training for its professional members and voluntary training for athletes and their parents. While interviews with USA Gymnastics members indicate that the mandatory training is informative, this report will highlight several areas in which the training can be improved such as: requiring additional training regarding club membership, the revised abuse prevention policies and procedures, and revised reporting requirements in line with those of the US Center for SafeSport and pending federal legislation; providing members with advanced courses in abuse prevention and reporting (including hiring practices and preventing youth-to-youth sexual activity); and requiring more frequent training.

There is certainly no lack of resources available through USA Gymnastics; but the organization lacks a comprehensive strategy for education and resource delivery. As a result of its scattered approach, either professional members, member clubs, parents and athletes are not aware of all the resources available to them, the various groups are overwhelmed and do not know where to begin or how to extract the knowledge needed from the significant amount of information available, or both.

In addition, USA Gymnastics should provide both athletes and their parents with non-cumbersome and non-threatening means of reporting. This will require far greater training accessibility, transparency, user-friendly means of reporting and feedback; as well as meaningful mentoring of athletes by people whose first priority is the athletes' well-being.

Communications to parents, rather than avoiding the subject as so often happens now in some clubs, should include descriptions of all types of safety precautions, including abuse prevention, reassuring them that the organization, whether USA Gymnastics itself or a member club, is looking out for the safety of their child in every possible way.







Accountability

There must be accountability throughout the organization, beginning with the Board holding the administrative leadership accountable for protecting athletes. This accountability must cascade throughout the organization, with the administrative staff holding national team staff and individual clubs accountable -- including an audit function periodically reviewing the level of compliance of individual clubs.

USA Gymnastics currently lacks systems to ensure that member clubs adhere to their membership requirements. In addition to creating systems to monitor compliance, USA Gymnastics must require members to report violations; and, when USA Gymnastics does learn of a violation, it must respond swiftly. Specifics will be provided throughout this report; but one of the primary changes in practice must be that membership in USA Gymnastics is recognized as a privilege that can and will be revoked if the standards (as revised) are not maintained.

For example, there should be strict requirements for the reporting of physical, emotional and sexual abuse. Failure by a club owner, a professional member, or any other person under the jurisdiction of USA Gymnastics to report misconduct as outlined by the revised reporting guidelines (of USA Gymnastics and the US Center for SafeSport) should be punishable with sanctions ranging up to the revocation of membership. And failure to report suspected child abuse promptly to law enforcement authorities should be punishable by revocation of the non-reporting club owner's membership.² The same should be true of any coach, judge or other adult member who is aware of another person's misconduct and fails to report it.

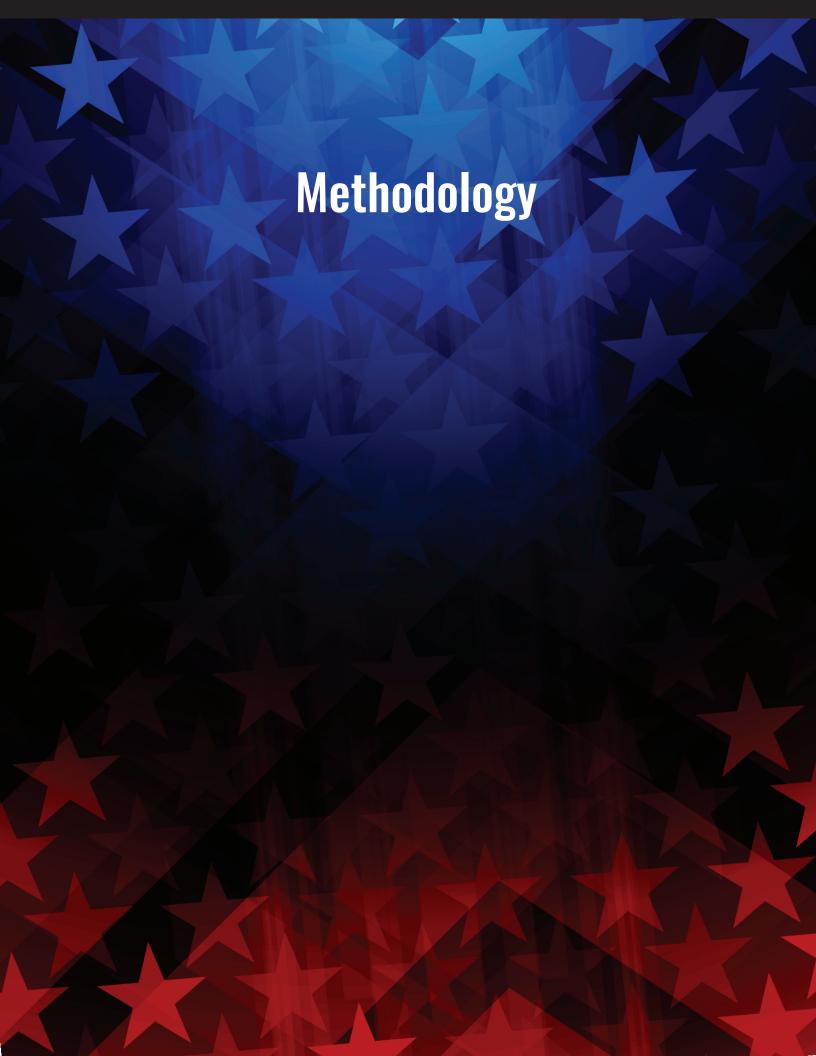
Finally, while member clubs that fail to abide by the rules of USA Gymnastics, in particular rules relating to child abuse and violations of the newly created USA Gymnastics Safe Sport Policy, should be punished, examples of success in protecting athletes should be modeled by USA Gymnastics and celebrated. Clubs that model the correct approach to athlete protection should be held up to other clubs as examples, and serve as mentors to other clubs.

Conclusion

We believe, based on our extensive review, that addressing the recommendations in this report through the cultural change framework will enable USA Gymnastics to improve its ability to protect the young competitors in its charge, and other young aspiring athletes, from harm. The safety of countless young gymnasts throughout the country is dependent on the ability of USA Gymnastics to effect this cultural change.

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² We include a recommendation in this report that any person with an ownership interest in a member club should be required to be a member of USA Gymnastics as well.









METHODOLOGY

The review commissioned by USA Gymnastics was conducted over a period of approximately 6 months, from late 2016 through May 2017. Daniels and Praesidium conducted over 160 combined interviews of the following: USA Gymnastics leadership and staff, former USA Gymnastics leadership, USA Gymnastics Board Members, USA Gymnastics professional and instructional members, club owners, meet directors, National Team staff and coaches, past athletes (including some who had allegedly been victimized physically or sexually by coaches), parents of athletes, United States Olympic Committee (USOC) leadership, U.S. Center for SafeSport leadership, Safe Sport³ advocates, Safe Sport representatives in other disciplines, counsel advising USA Gymnastics on policy matters, United States House and Senate staff members, and law enforcement representatives.

The interviews occurred in part in conjunction with site visits to 25 member clubs and attendance at five competitions including the following disciplines: Women's Artistic Gymnastics, Men's Artistic Gymnastics, Trampoline and Tumbling, and Rhythmic Gymnastics. Daniels and Praesidium sought to visit a representative sampling of USA Gymnastics member clubs, based on consideration of the following factors: club size, location, and varying levels of engagement with USA Gymnastics. Before each site visit, each member club was notified in advance that either Daniels or Praesidium would be visiting that location to discuss matters related to Safe Sport. If the timing did not work for a site visit to the club, a telephone interview was conducted.

A voluminous number of individual interviews was conducted, many by telephone, including USOC and U.S. Center for SafeSport leadership; several coaches and gym owners, and former elite athletes. Advocates who have spent years immersed in the issues surrounding Safe Sport and USA Gymnastics were also interviewed.

Daniels and Praesidium also visited the USA Gymnastics National Team Training Center (NTTC) at the Karolyi Ranch in Texas. While at the NTTC, the team observed a Developmental Camp and a Women's Artistic Gymnastics National Team Camp, conducting additional interviews of coaches and USA Gymnastics staff members while there.

Throughout the review process, Daniels and Praesidium conducted a thorough data collection and analysis including, but not limited to, the following materials:

- USA Gymnastics Bylaws
- USA Gymnastics policies and procedures
- U.S. Center for SafeSport governing documents
- USOC governing documents
- USA Gymnastics online and in-person training materials
- Sample abuse prevention resources provided by USA Gymnastics
- We Care and Clubs Care Campaigns
- Together We Can Initiative
- Safe Sport programs for other National Governing Bodies

³ "Safe Sport" is a term coined by the U.S. Olympic Committee several years ago to represent policies aimed at protecting young athletes from abuse of various types, including but not limited to sexual abuse. The entity created by the USOC to deal with Safe Sport issues uses the single-word version, "SafeSport", in its name.







- International Gymnastics Federation practices
- S. 534 and H.R. 1973 (legislation pending in the U.S. Senate and House of Representatives, respectively)
- Ted Stevens Olympic and Amateur Sports Act
- Minutes of USA Gymnastics Board Meetings and Committee Meetings
- Various articles published by news media
- Books by and about former athletes including:
 - Off Balance by Dominique Moceanu⁴
 - Chalked Up: My Life in Elite Gymnastics by Jennifer Sey⁵
 - Little Girls in Pretty Boxes: The Making and Breaking of Olympic Gymnasts and Figure Skaters by Joan Ryan⁶

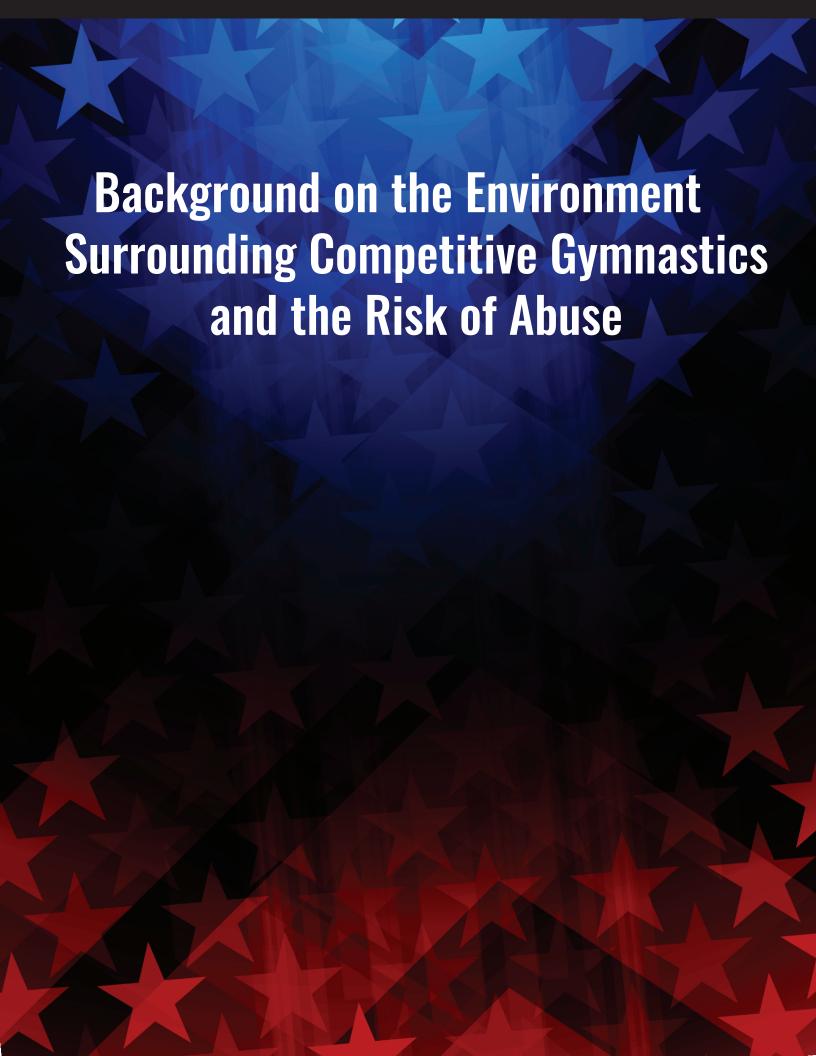
The recommendations in this report were informed by information received from the myriad sources described above. This information provided sufficient background to contribute to an analysis of the workings of the organization; an analysis of the environment surrounding competitive gymnastics; an analysis of the various barriers to reporting abuse and/or grooming activities; and an analysis of various processes embedded in the sport and in the abuse reporting system currently in place. The recommendations that follow stem from this review and analysis.

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⁴ Dominique Moceanu, with Teri Williams, "Off Balance: A Memoir," Touchstone Publishing, 2012.

⁵ Jennifer Sey, "Chalked Up: Inside Elite Gymnastics' Merciless Coaching, Overzealous Parents, Eating Disorders, and Elusive Olympic Dreams," William Morrow Publishing, 2008.

⁶ Joan Ryan, "Little Girls in Pretty Boxes: The Making and Breaking of Elite Gymnasts and Figure Skaters," Grand Central Publishing, 1995; revised edition, 1996.









BACKGROUND ON THE ENVIRONMENT SURROUNDING COMPETITIVE GYMNASTICS AND THE RISK OF ABUSE

A significant amount of research has been conducted relating to sexual offenders who abuse young children. Generally, such individuals seek circumstances affording them ready access to children, privacy, secrecy, and the opportunity to develop a relationship of trust with the children. Often, these offenders are people who are well liked by the children as well as their parents and other adults with whom they interact.

Organizations that serve children have long been aware that, while most adults who wish to work in their environment are well-meaning and have only the best interests of the children at heart, there is a danger of child sexual predators gaining access to children through employment or volunteer service with such an organization. For that reason, myriad entities, from schools to recreational clubs to scouting organizations, perform criminal background checks on the people they consider for paid and volunteer positions. Many states, in fact, require criminal background checks in relation to certain areas of work for precisely this reason. However, only a very small percentage of predators has been convicted of a crime or listed on a sex offender registry, so while the background check is essential, it is not a failsafe. Thus, employers do their best to check references as well; and they are well aware of the need for vigilance in both their hiring and management processes.

This risk of sexual abuse and harassment, as well as the risk of other types of abuse, such as the physical and emotional abuse of young people, is clearly present in the high-pressure environment of Olympic sports. The athletes and their coaches are driven to achieve the level of excellence required to be deemed the best in the world. The athletes who reach the elite (highest) level of competition are singularly focused on achieving this level of excellence, and generally are willing to sacrifice the kind of lives other young people enjoy – school, social life, normal childhood recreation – in favor of home schooling, many hours of practice every day, and a limited circle of acquaintances based around the gym, the pool or the ice rink. This all-encompassing training regimen can isolate an athlete from the rest of society, and limit his or her exposure to and comprehension of the normal boundaries of adult and child interaction; so it can be hard for a young athlete to recognize what constitutes acceptable conduct and what does not.

Even in the highly-charged, high-pressure Olympic environment, women's gymnastics stands out as unique. The athletes, including at the elite level, are very young: it is possible to reach the elite level of competition by age 11, and to peak in the sport as early as age 18. Even men's gymnastics, which requires a physical maturity level that young men do not reach until their late teens, does not involve athletes at such a young age competing at the top levels; generally, the top men's gymnasts are collegeage rather than middle school or high school age.

Further, the young girls who have goals to be competitive in the sport usually begin their intensive training so early in their lives that they have less "typical" or "normal" life experience than their age group peers outside the gym. As their demands of their training increase and they spend more hours in the gym preparing for competitions, they often do not receive the type of socialization other young people experience.

This is certainly not true of every young trainee, however. USA Gymnastics offers a "stair step skill advancement" program for gymnasts of all ages and abilities, referred to as the "Junior Olympic







Program" and offering gymnastics training in developmental, compulsory and optional programs. Generally, those in Levels 1 (lowest level of skill) to 5 are unlikely to experience this lack of socialization. They comprise the vast majority of trainees in the clubs around the country, and they may be in the gym only twice a week for a few hours or up to many hours a week depending on their specific training program and skill level. While there is always a risk of predators in the gym environment, and club management must always be vigilant, this population is probably the least vulnerable because they spend less time in the gym than gymnasts participating in Level 6 through Level 10, due to the increased training required to compete at those levels. It is those approaching the elite training level who are less likely to receive the type of socialization other young people experience.

Pre-pubescent girls tend to be eager for the approval of adults, and will seek that approval, particularly from someone like a coach, who is viewed as far superior to and more knowledgeable than they. Further, because of the subjectivity of the scoring in gymnastics and the even more subjective method of team selection, the coaches and national team staff have an unusual amount of control over whether a young athlete will be permitted to participate in a competition. And in a sport such as gymnastics, in which falls and injuries are common, the athletes are taught at an early age to "tough it out" and not to complain or demonstrate weakness. A perception of a lack of mental and/or physical toughness can lead to an athlete's exclusion from a competition. For understandable reasons, only the athletes who are perceived to be able to withstand the physical and emotional strain of competition will rise to the top of their craft and be selected for inclusion on a team competing with the top athletes from other jurisdictions.

The training environment alone, coupled with the developmental stage of the young athletes, could lead to a dangerous environment, ripe for abuse. But in gymnastics, as compared to more team-related sports, there is greater opportunity for adults to be alone with the young athletes, for example, through private lessons.

The sport is also one that not only permits, but to a certain extent requires, physical contact between coach and athlete: the coach may be required to "spot" the athlete in order to prevent physical injury; stretch the athlete before practice or a competition; massage the athlete before an event; or touch the athlete to demonstrate form. Any of these examples could involve touching the athlete in areas that an adult would not normally be permitted to touch.

The high-stress environment is exacerbated by certain coaches whose ego, and reputation as a coach, is intertwined with the success of their athletes in the competition arena. This can lead to physical and emotional abuse of the athletes, in particular in, but not limited to, the elite level of competition. Coaches will admit that this pressure exists. In some, but not all, cases, it has led to reported emotional abuse, such as "fat-shaming" and other inappropriate personal criticisms; playing one athlete off against the other emotionally as favoritism is granted and withheld; training athletes through serious injury and past the point of exhaustion; and even direct physical abuse. Choosing to ignore an athlete – and we have received many reports of this type of treatment by certain coaches – can have as significant an impact on a young girl as shouting cruelties at her; this, too, can constitute emotional abuse.

The skill levels range from 1 (lowest) to 10; and those who excel beyond Level 10 are called "elite" gymnasts.

These are the gymnasts who compete at the highest level and from whose number the national team is selected.





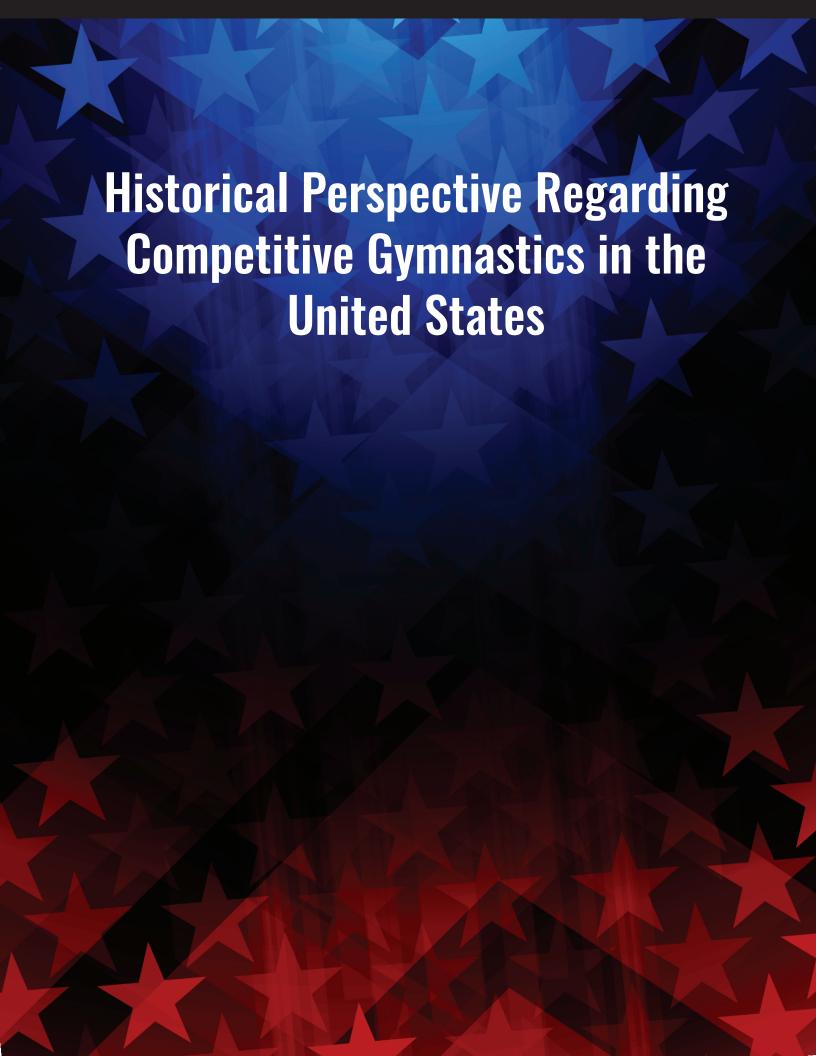


Even in the case of non-abusive coaches, the rule at the gym is obedience: if a young athlete is to succeed, she must listen to her coach and follow his/her instructions fastidiously. There is no room in the competitive training environment for individualism, disagreement or even questioning of the coach's instructions. This is necessary if the young athlete is to be competitive in the sport.

Parents of athletes, too, come to understand that the coach is in charge. "Helicopter" parenting is discouraged, and parents learn that they must turn their child's upbringing and discipline over to the coach during the training portions of her day, and even beyond. If the coach orders no desserts, the parent is doing the child a disservice by taking her out for ice cream. Parents are taught to trust the coaches and other adults involved in training their child, and not to question their actions or decisions. Parents are, for perfectly valid reasons, kept off the training floor, though most gymnastics clubs permit and even encourage them to attend training sessions, sitting in bleachers in full view of the gymnasts and coaches. And generally, the parents are not themselves gymnasts, so they are uncertain of the propriety of actions that may be taken by coaches. They want their child to succeed, so they tend to defer to the authority figures in the sport and not question them.

Everything about this environment, while understandable in the context of a highly competitive Olympic sport, tends to suppress reporting of inappropriate activity. The athlete and her parents are not certain what behavior is inappropriate; the athlete is expected to bear pain and emotional stress without complaint; the young female athlete in particular is highly desirous of gaining the approval of adult authority figures; and the athlete's opportunity for success in competition hinges on pleasing her coach. Even fellow athletes are in competition with each other, further suppressing the desire to report inappropriate activity by adults, even to peers. Elite gymnastics is not truly a team environment; while some friendships form, each individual is in competition with every other individual gymnast. In this environment, it is highly unlikely that the athletes themselves will report abusive activity to others. In addition, we have learned that some athletes who did report abuse were ostracized by coaches, fellow athletes and even those athletes' parents, who either did not believe the reports or simply did not want a popular and purportedly effective coach sidelined.

Clearly, in order to protect these young athletes from predators, the entire culture of the competitive gymnastics environment must be focused on protection of athletes from harm, including not only physical harm but also emotional and sexual abuse. While athletes participating in many sports are at risk, the focus of this report will be on competitive gymnastics, and, for the reasons articulated above, competitive women's gymnastics – with a particular concentration on, but not limited to, the issues confronted by young women at the elite level of competition.









HISTORICAL PERSPECTIVE REGARDING COMPETITIVE GYMNASTICS IN THE UNITED STATES

USA Gymnastics, while not by any means alone among Olympic sports, has a long and successful tradition of winning Olympic medals. Particularly since the 1980s, after Bela and Martha Karolyi emigrated to the United States from their native Romania and began coaching gymnastics, eventually taking over coordination of the U.S. women's Olympic gymnastics teams, the U.S. has attained dominance in the Olympic sport of gymnastics.

Mary Lou Retton was one of the first young U.S. stars of the sport when she won Olympic gold in 1984, at the age of 16. Coached by Bela Karolyi, legendary in the U.S. for his coaching of the young Romanian gymnast Nadia Comaneci, Retton was the first U.S. female artistic gymnast to win gold in the all-around Olympic competition. As a measure of the fame this accomplishment brought, her picture appeared on a Wheaties cereal box, a privilege formerly accorded only to male athletes.

Beginning with Retton's victory, the U.S. over time developed a winning streak in women's artistic gymnastics. Since 1984, several other U.S. competitors have won Olympic gold, and the U.S. has won the team competition on three occasions as well. But it can be said that the country's fascination with women's gymnastics, and in particular women's artistic gymnastics, began with 14-year-old Romanian Nadia Comaneci's first-ever perfect score of 10 in 1976, and skyrocketed beginning with Mary Lou Retton's victory in 1984.

Others came after Retton, including Dominique Moceanu, who was first included in the U.S. women's national team at age 10; won the senior all-around title at the U.S. National Championships at age 13; and in 1996, at age 14, was a member of the "Magnificent Seven" who won team gold at the Atlanta Olympics. (Young women now are not permitted to compete at the Olympic level until age 16.)

It was during these years that young girls throughout the country became enthralled with gymnastics. Many had visions of being the next Mary Lou Retton or Dominique Moceanu, and they flocked to private gymnastics clubs in droves. This created a significant demand for gyms and coaches to train young girls in gymnastics. As a result of this intense interest, there are currently over 3,500 private gymnastics clubs around the country that are affiliated with USA Gymnastics, and an unknown number that do not choose to affiliate. Some of the affiliated gyms are major business concerns, training as many as 3,000 to 5,000 young athletes.

During this time, USA Gymnastics also went through a number of adjustments at the national level. After a disappointing showing in international competition in the years following the "Magnificent Seven" (1996), USA Gymnastics invited Bela Karolyi out of retirement and named him as National Team Coordinator in 1999. Prior to this time, elite gymnasts had trained under a decentralized system with their personal coaches in their home gyms and where the athletes only came together as a national team for competition. However, many of the most successful countries at that time existed under a quasi or fully centralized system. It was under the leadership of Bela and Martha Karolyi (who replaced Bela as National Team Coordinator in 2001, serving until 2016) that the United States followed this training path to create a quasi-centralized system. The Karolyi Ranch, in rural Texas, became the central location for training. National Team Members and Elite gymnasts would travel to the Ranch on a regular basis (typically each month) to live and train. While USA Gymnastics has seen great success in international competition with this training model, many believe that it has created an additional risk of







athlete abuse due to the intense environment and culture. Many of these factors will be discussed in detail throughout the following sections of this report.

Over the years, USA Gymnastics, the Olympic National Governing Body (NGB) for all six gymnastics disciplines, created a membership program for professional coaches, instructors, athletes, and the clubs themselves. Originally created simply to provide benefits to the members, over time various policies were put in place by USA Gymnastics that its members were encouraged to follow. While USA Gymnastics has not felt during all these years that it had the authority to require the individuals and private member clubs to follow any but the most basic of requirements in order to hold the privilege of membership, it sought to provide information, training and templates to assist the clubs in protecting young athletes from harm.

Starting in the early 1980s, according to the 1995 book "Little Girls in Pretty Boxes: The Making and Breaking of Olympic Gymnasts and Figure Skaters," by San Francisco Chronicle sportswriter Joan Ryan⁸, USA Gymnastics (known at that time as the U.S. Gymnastics Federation) "instituted what one official calls 'a pretty proactive program' in the early 1980s to fight sexual abuse after several coaches were accused of molesting their athletes." Others have confirmed that the organization, which recognized cases of abuse at least as early as the 1970s, began revoking memberships in the 1980s for sexual abuse convictions.

From 1983 to 1994, Michael Jacki, a former All-American gymnast, coach and gymnastics volunteer, served as President of USA Gymnastics. He is credited by others with having instituted significant changes for the benefit of the athletes, including a new safety program. Jacki is described as having been passionate about the cause of protecting athletes from sexual abuse. He began a membership termination process relating to reports of abuse, and is reported to have been aggressive in his attempts to revoke the memberships of members charged with sexual abuse – at that time, likely putting him and USA Gymnastics on the leading edge of child protection in Olympic sports.

During these years, perhaps as gymnasts began to realize that action might be taken to remove sexually abusive coaches from the environment, more athletes began reporting abuse. Still, the overall training atmosphere, as well as the concerns of parents about the potential consequences to their children of making a report, discouraged such reporting.

By the 1990s, USA Gymnastics had begun an aggressive series of steps to promote a safe environment for the gymnastics community. According to information provided by USA Gymnastics, these steps were taken by the organization between 1990 and 2017:

- 1990 Permanently Ineligible Membership List Established
 - List of persons who are permanently banned from membership and consequently any role in a USA Gymnastics -sanctioned competition
- 1994 Board of Directors adopts Code of Ethical Conduct
 - General principles intended to guide conduct of members
- 1996 Member Club Program Launched
- 1998 Safety/Risk Management Course Mandated

⁸ Joan Ryan, "Little Girls in Pretty Boxes: The Making and Breaking of Elite Gymnasts and Figure Skaters", *supra* note 6.

⁹ *Id.,* Chapter 5.







- On-line course including prevention of child abuse instruction as well as other safety issues
- Required for professional members (coaches, officials)
- o Required to be repeated at 4-year intervals
- 2005 Voluntary Safe Sport Training First Offered by USA Gymnastics
 - Offered annually at regional and national congresses
- 2007 Criminal Background Screening First Required
 - Mandated for professional members every two years
- 2007 Bylaws Amended
 - Expedited process adopted to terminate membership of individuals convicted of certain categories of crimes (sexual, against minors) or listed on a sex offender registry
- 2009 Participant Welfare Policy Created & Code of Ethical Conduct Updated
 - The Participant Welfare Policy outlined USA Gymnastics' commitment to promoting a safe environment, as well as the requirements and expectations of its members, including definitions of physical and sexual abuse; reporting procedures for suspected abuse; misconduct/grievance procedures; member obligations and recommendations; standards of behavior; and education and communication about the policy
 - Code of Ethical Conduct amended to address sexual misconduct issues
- 2011 Member Club Requirements Established
 - Includes requirement that Member Clubs must have a policy "consistent with"
 USA Gymnastics' Participant Welfare Policy and not hire or associate with any banned (permanently ineligible) member
- 2012 Clubs Care/We Care Campaigns Launched
 - Educational initiatives to raise awareness regarding sexual abuse, primarily online
 - Clubs Care campaign directed at member clubs
 - We Care campaign directed to parents of athletes
- 2013 Safety/Risk Management Course Updated
 - Course and Handbook include an expanded chapter on sexual misconduct prevention
 - Child Sexual Misconduct Education Offered through USA Gymnastics (on-line)
 University: "Stewards of Children" course
- 2014 Prohibited Conduct Defined
 - Introduced policy on prohibited conduct to national team coaches/staff and USA
 Gymnastics staff
- 2014 Athlete Participation Policies Strengthened
 - Athletes must be affiliated with a USA Gymnastics member club to participate in USA Gymnastics-sanctioned events
- 2017 Rebranding of Clubs Care/We Care
 - USA Gymnastics rebrands and enhances Clubs Care/We Care to become USA Gymnastics Safe Sport, consistent with the new U.S. Center for Safe Sport (created by the United States Olympic Committee as a stand-alone entity to respond to reports of abusive behavior)
- 2017 Bylaws revised to align with U.S. Center for SafeSport Code







At one time, many commentators agree, USA Gymnastics was on the forefront of child athlete protection. It was reportedly the first NGB to create a list of persons deemed permanently ineligible for future membership, and to publish that list, along with the reason for the decision, represented by a citation to the particular section of the USA Gymnastics Bylaws or Code of Ethical Conduct that formed the basis for the decision. As demonstrated above, USA Gymnastics has over the years continued to improve the way it has sought to protect young athletes through its policies.

However, as additional information has been revealed about the various ways in which young athlete lives are endangered by predators and the child protection efforts of other governing bodies and industries have evolved, it appears that USA Gymnastics has fallen somewhat behind the curve. Some other NGBs, such as USA Swimming in the wake of similar revelations of abuse in 2010, have taken significant steps to protect minors in their charge beyond the initiatives USA Gymnastics has undertaken to date.

USA Gymnastics has certainly developed policies, which, while susceptible to improvement, make a clear statement that abuse of athletes is not to be tolerated and can be addressed through a formal process leading potentially to criminal prosecution and expulsion from the sport. A great deal of attention has been paid to the provision of educational materials for the clubs and coaches. But often, the policies simply seem to appear on the USA Gymnastics web site rather than being advertised widely to the membership. It is likely that many such policies are overlooked by member clubs and coaches, as well as by athletes and their parents. And policies and available education, absent a strong enforcement effort on the part of the organization itself and a no-tolerance approach to enforcement, are unlikely to result in effective protection of athletes from abuse.

Further, the USA Gymnastics' practice of "banning" (adding to the Permanently Ineligible list) and suspending offenders may be flawed. At least in past years, according to an article in *The Indianapolis Star* following the release of voluminous documents by a court in Georgia in a pending case, it was possible to be convicted criminally of child sexual abuse but not banned by USA Gymnastics.¹¹ Documents reviewed by the Star also reportedly revealed that USA Gymnastics has in the past sometimes temporarily suspended an offender but has not made the public aware of that fact.¹²

And despite its efforts to provide more and more information and guidance to clubs, individual members, and parents of athletes, the external appearance in the eyes of many observers has been that the primary focus of USA Gymnastics is on the competitive side, culminating in the U.S. winning medals at the Olympic Games and other international competitions. Some of the focus on winning rests with the very nature of the organization: after all, it is the National Governing Body for gymnastics charged with preparing young athletes to compete and win at the Olympic Games every four years, as well as in other worldwide competitions. Additionally, the U.S. Olympic Committee (USOC), the governing body for all Olympic sports, rewards NGBs monetarily based not entirely, but to a significant degree, on their success in winning medals.

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¹⁰ The USA Gymnastics Bylaws were amended effective 2012 to include a citation to the specific Bylaw or policy violated. Entries prior to that date do not include such a citation.

¹¹ "USA Gymnastics Files Shed New Light on Sex Abuse Scandal," *The Indianapolis Star*, March 3, 2017.

¹² Ibid.







While there is a mechanism within USA Gymnastics for reporting misconduct on the part of participants in the sport, including coaches and other adults interacting with children, it has traditionally been couched as a "grievance" procedure, and was originally intended as a means of resolving disputes between members. A typical grievance may, for example, involve the refusal of a coach to include an athlete on a team in competition despite the performance of the athlete.

This grievance process is also used for reports of alleged wrongdoing such as sexual abuse. It is, in our estimation, not well suited to that purpose; for example, until 2013, a written complaint from either the "aggrieved party" or, if a minor, the party's parent, was required in order to initiate the process. Even since that time, when the Bylaws were amended to permit USA Gymnastics to file a complaint unilaterally, the belief in the field (seemingly not actively discouraged by USA Gymnastics) is that a written, signed complaint from the alleged victim or her parent is required. As indicated above, young athletes (in their teens or younger) and their parents are highly unlikely to report ongoing abuse to the authority that has so much power over the athlete's success in the sport.

Athletes and their parents are not well informed of the risks of abuse related to their participation in gymnastics, and the remedies available to them if misconduct occurs. While a great deal of information is found on the USA Gymnastics web site, and sent out to parents and clubs in various mailings, there is still a significant information deficit on the part of athletes and their parents, and even club owners and coaches, in terms of what to do if they see, experience or learn of misconduct.

Other aspects of the operation of USA Gymnastics, which will be described in the sections of this report that follow, suggest a primary emphasis on winning medals. While there is also a significant emphasis on protecting children, as indicated in the following sections, most of the emphasis appears to be on educating the field and encouraging them to be vigilant, while taking the position that USA Gymnastics has no authority to require the clubs to take specific action – including the reporting of suspected child abuse. The overall impression received externally is that the athlete protection function is, at best, secondary to the primary focus: winning medals.

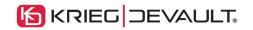
USA Gymnastics has dual responsibilities: those of winning competitions and of protecting young athletes from abuse. These responsibilities are not and need not be exclusive of one another, or seen as competing interests. To be sure, USA Gymnastics makes it clear in many of its publications that the protection of athletes is a primary concern. For example, the introduction to the Participant Welfare Policy, developed in 2009 and still in effect as of mid-June 2017, provides:

Consistent with the mission of USA Gymnastics, the welfare of gymnastics participants, especially minors, is of paramount concern. When any member, participant, coach, official, volunteer or staff member is subjected to abuse, whether physical or sexual, it undermines the mission of USA Gymnastics and is inconsistent with the best interests of the sport of gymnastics and of the athletes USA Gymnastics serves.¹³

A copy of the Participant Welfare Policy as effective in mid-June 2017 is attached to this report and marked "Exhibit A".

Nonetheless, the protection of athletes, whether or not by design, has been perceived externally as a distant second to the winning function.

¹³ USA Gymnastics Participant Welfare Policy, as of Mid-June 2017, https://www.usagym.org/pages/aboutus/pages/welfare_policy.html.







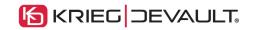
One of the most significant risks to the athletes is a consequence of the decentralized gymnastics community. Clubs hosting gymnastics training are private businesses, employing coaches and other staff directly; they are not subsidiaries of USA Gymnastics. When a coach leaves a club, even if dismissed for reasons related to sexual abuse or pre-abuse grooming of athletes, (s)he can simply apply at another club. If a club's management is vigilant, it will check references as well as conduct a background check. However, background checks, while critically important, only reveal criminal convictions or the equivalent; and if the new club is not vigilant or the prior employer is concerned about civil liability for sharing information about the reasons for the dismissal, the new club may not find out about the prior abuse or grooming activity.

An article in the December 18, 2016 edition of The Indianapolis Star exemplifies the danger. ¹⁴ Ray Adams worked as a coach in at least 12 clubs in 4 states. Fired several times and even charged with criminal offenses 4 times, he continued to gain employment with other clubs, coaching pre-teen and adolescent girls. He left a trail of anguish in his path, in the form of over 15 abused girls whose lives were forever damaged – but clubs continued to hire him, either because they were unaware of the abuse or, in the case of at least one club, reportedly knew but promised to "watch" him (according to our interview of another club owner who had previously employed Adams). Because Adams had threatened legal action against prior employers, some may have been unwilling to be fully forthcoming when contacted by a potential future employer for a reference check. At least in part because some parents did not want their children to have to testify, employers in some cases did not report the abuse to authorities. And the significant demand for coaches seems to have led at least some clubs to believe the hire was worth the risk as long as club management "watched" him.

Adams is not the only abuser to have moved from one club to another, but his case is exemplary of the problem. The situation is exacerbated by the fact that USA Gymnastics currently has no system for tracking the movements of members, other than the fact that each club annually must file a list of all its professional members, and each professional member and instructor member must indicate in his/her annual membership renewal the club (s)he is affiliated with as of that time. A potential new employer has no way of tracking a coach's migration from club to club unless the coach reveals his full employment history. Further, reports of abuse or inappropriate activities on the part of a dismissed coach are often not forwarded to USA Gymnastics or shared with potential employers. Often, the failure to report inappropriate activity to a future employer, to USA Gymnastics or even to law enforcement authorities when there is a suspicion of child abuse is related to the reasons related in the preceding paragraph. Unfortunately, in some cases failure to report may also be related to a club owner's fear of ruining the club's reputation with the inference that it has permitted abusive behavior to occur in the club. But our review also revealed, as will be discussed elsewhere in this report, that USA Gymnastics has not historically required member clubs, or any other members of USA Gymnastics, to report any type of abuse, including sexual misconduct, to USA Gymnastics or law enforcement authorities.

A separate aspect of this risk is that, at least in past years, even a former member deemed permanently ineligible for future membership due to sexual misconduct, and so listed on the USA Gymnastics web site, could still obtain a job coaching at a club, as long as (s)he was not coaching athletes competing in competitions sanctioned by the organization. While that problem has been remedied by a policy revision at USA Gymnastics – USA Gymnastics has required since 2011 that

¹⁴ "He Could Have Been Stopped: How One Pedophile Kept Coaching Gymnastics," *The Indianapolis Star*, December 18, 2016.







member clubs "not hire or be associated with" a person who has been placed on the Permanently Ineligible list — a suspended coach is apparently able to obtain a job coaching in a non-member capacity. A coach who is merely suspended for a period of time is not prohibited from working with athletes who are not engaged in USA Gymnastics sanctioned competition. In fact, we understand that USA Gymnastics has not routinely published the fact that a person's membership has been suspended; so clubs have not necessarily been aware that a member has done something serious enough to be suspended by USA Gymnastics; and the suspension cannot be enforced absent this awareness.

Thus, unless the offender is permanently banned (normally as the result of an actual criminal conviction), the opportunity to work in the field, even though dismissed from a club for sexual misconduct or even suspended, remains. One former member coach, dismissed from a club for sexual misconduct, was reported to have obtained a position coaching cheerleading at a member club. Since cheerleading is not an Olympic sport, he was allegedly permitted to coach without being a member of USA Gymnastics. Whether or not this report was accurate, it is entirely possible that such a phenomenon could occur in the current environment. In addition, such a person would theoretically be permitted to coach recreational gymnastics, available to young children who do not expect to compete but simply wish to learn tumbling or other aspects of gymnastics. In that sense, the coach could become even more dangerous, permitted to coach even younger children while operating outside the jurisdiction of USA Gymnastics.

And even though USA Gymnastics tells member clubs that a condition of their membership is that they not associate in any way with a person on the Permanently Ineligible list, reports of violations periodically surface. *The Orange County* (California) *Register* reported in December 2011 that Don Peters, a former celebrated coach who was discovered to have engaged in sexual misconduct with underage athletes, convicted of sexual abuse and banned from USA Gymnastics, still maintained a financial interest in the club he had previously run. ¹⁵ We note that it was in 2011 that USA Gymnastics changed its policy to prohibit such an affiliation, perhaps in response to this specific report. However, other reports, unconfirmed by the authors of this report, include more recent suggestions of violation of the policy, such as a banned former coach spending a considerable amount of time in her daughter's member club, against USA Gymnastics policy. This type of activity is difficult for USA Gymnastics to police.

In fact, many people working in the club environment are not required to be members of USA Gymnastics. This includes non-coaching staff and volunteers. None of those individuals is currently under the jurisdiction of USA Gymnastics.

Developments in 2016-2017:

U.S. Center for SafeSport Launch (March 2017)

In recent years, USOC has recognized that there is a serious risk of athlete abuse in many, most or all Olympic sports. In 2012, USOC first formed a working group to develop a "SafeSport" code governing USOC and its affiliated entities, including NGBs, as well as to create a "U.S. Center for SafeSport" that would be given jurisdiction over violations of the SafeSport code, including but not limited to sexual abuse allegations. A representative of USA Gymnastics has been involved as a liaison to multiple such working groups since the original group was formed.

¹⁵ "Convicted Sex Offender Regains Control of Colorado Gym," *Orange County Register*, December 9, 2011.







The U.S. Center for SafeSport (Center) was officially launched in March 2017. It is intended to be a stand-alone entity, operating independently of USOC, in much the same way that the World Anti-Doping Agency (WADA) is independent of, while a creation of, the International Olympic Committee. The Center has exclusive authority to resolve reports of sexual misconduct and other conduct prohibited by the "SafeSport Code for the U.S. Olympic and Paralympic Movement" (Code)¹⁶, but requires that all misconduct, including physical abuse, sexual abuse, emotional abuse, harassment, hazing and bullying be reported to it by NGBs and by all "covered individuals," essentially described as persons deemed by any of the 47 Olympic NGBs to be under that NGB's jurisdiction. The Center will also report all cases of suspected criminal abuse to law enforcement authorities.

In order to obtain jurisdiction over persons who may no longer be members of an NGB, the Code defines "Covered Individuals" as follows:

Any individual who: (a) currently is, or was at the time of a possible violation of the Code, within the governance or disciplinary jurisdiction of an NGB or who is seeking to be within the governance or disciplinary jurisdiction of an NGB (e.g., through application for membership), (b) is an athlete or Non-athlete Participant that an NGB or the USOC formally authorizes, approves or appoints to a position of authority over Athletes or to have frequent contact with Athletes or (c) an NGB defines as being within the [Center's] jurisdiction.¹⁷

Thus, for example, if the Center receives a report of alleged abuse by an applicant for membership, or alleged abuse by a former member that is alleged to have occurred while that person was a member, the Center will have jurisdiction over that person.

In addition to clearly stating the types of actions it prohibits and has the power to sanction, it encourages NGBs and their member organizations, to which it refers as "Local Affiliated Organization(s)" (LAO), as well as the USOC, to develop what it refers to as "proactive policies" applicable to Covered Individuals and "set standards for professional boundaries...." It provides examples of potential prohibited activity, including "massages and rub-downs, social media and electronic communications, photography, locker rooms, one-on-one meetings and gifting" as well as "overnight travel rules". 18

Recommendations will be made regarding proposed "proactive policies" in a later section of this report.

<u>Indianapolis Star Series On Sexual Abuse Within Gymnastics and USA Gymnastics Response</u> (Beginning August 2016)

Another series of developments contributed to the commissioning of the review and evaluation culminating in this report. In the late summer of 2016, *The Indianapolis Star* began publication of a series of articles on sexual abuse within the world of Olympic women's gymnastics, reporting myriad cases of alleged abuse reported by gymnasts and/or former gymnasts. In a wide-ranging story published in December 2016, the Star reported that over a 20-year period, 368 gymnasts had alleged sexual abuse or exploitation by coaches and other authority figures, at least some of whom were alleged to have been associated with USA Gymnastics as members; and that many of the allegations against members had not been pursued, or had not been promptly reported, by USA Gymnastics.¹⁹

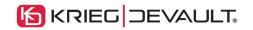
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¹⁶ http://safesport.org/files/details/10.

¹⁷ SafeSport Code for the U.S. Olympic and Paralympic Movement, Section II.E.

¹⁸ *Id.*, Section III.B.2.

¹⁹ "A 20-Year Toll: 368 Gymnasts allege Sexual Exploitation," *The Indianapolis Star*, December 15, 2016.







Included in the reports of abuse was the serial sexual abuse allegedly perpetrated by longtime USA Gymnastics Women's National Team physician Dr. Larry Nassar. In recent years, a number of adult women have come forward, all alleging similar sexual abuse perpetrated on them by Dr. Nassar while they were elite gymnasts. The allegations came to light in newspaper accounts when one woman filed a lawsuit in August 2016 in California and another filed a separate lawsuit in Michigan.²⁰ Since that time, Dr. Nassar has been charged criminally in the State of Michigan for abuse of Michigan State University gymnasts; and a total of 41 women have reportedly filed or joined civil lawsuits against Nassar alleging sexual abuse.²¹ Nassar has separately been indicted federally for child pornography; that case is being prosecuted by the U.S. Department of Justice.²²

Federal Legislation (Introduced in March 2017)

These developments came to the attention of prominent members of Congress as well. Senator Diane Feinstein (D-CA) led a group of several U.S. Senators in filing legislation in March 2017 entitled the "Protecting Young Victims from Sexual Abuse Act of 2017", under the bill number S. 534.²³ The legislation, if passed, will require reporting to law enforcement of suspected child abuse by any person under the jurisdiction of an NGB, and makes it a crime, punishable by up to 3 years in prison, to fail to so report. It also requires NGBs to develop: a mechanism making it easy for a person to report sexual abuse committed by any person under the jurisdiction of an NGB; procedures to prevent one-on-one contact between any non-parent/guardian adult at a facility under the NGB's jurisdiction without being in a position to be observed by others; and oversight procedures, which are to include independent random audits to ensure compliance with reporting and abuse prevention training. For NGBs like USA Gymnastics, with a large number of member facilities, the legislation requires that the NGB develop a process permitting the sharing of information among the NGB and its member affiliates of information about the expulsion or departure from any member facility of an adult based on an allegation of sexual misconduct. In addition to other provisions, including an extension of the statute of limitations, the legislation includes provisions intended to shield NGBs from liability for adhering to the terms of the legislation.

Soon thereafter, on April 6, 2017, a nearly identical bill was introduced in the U.S. House of Representatives by Rep. Susan Brooks (R-IN) and other Representatives, similarly titled and numbered H.R. 1973. After certain amendments in the House Committee on the Judiciary, H.R. 1973 passed the full House of Representatives on May 25, 2017 by an overwhelming vote of 415-3.²⁴

These two bills will be described collectively in this report as "the Federal Legislation."

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²⁰ "Former USA Gymnastics Doctor Accused of Abuse," *The Indianapolis Star*, September 12, 2016.

²¹ "Gymnastics Doctor Charged with 22 Counts in Sex Assault Case," CNN, February 23, 2017, http://www.cnn.com/2017/02/22/health/gymnastics-doctor-sexual-assault-charges/; "He's a Monster: 22 New Charges Against Ex-Gymnastics Dr. Larry Nassar," *The Indianapolis Star*, February 23, 2017.

²² "FBI Says Gymnastics Doctor Larry Nassar Recorded Abuse on Go Pro," NBC, December 21, 2016, http://www.nbcnews.com/news/us-news/gymnastics-doctor-larry-nassar-hit-new-sex-abuse-claim-n698741.

News Release, Senators Introduce Bill Requiring U.S. Amateur Athletic Organizations, Members to Report Sexual Abuse, March 6, 2017, https://www.feinstein.senate.gov/public/index.cfm/press-releases?id=DFAC8B0E-AB09-4176-8D74-B9D803CFAB2B.

²⁴ News Release, House Overwhelmingly Passes Brooks' Protecting Young Victims from Sexual Abuse Act, May 25, 2017, https://susanwbrooks.house.gov/media-center/press-releases/house-overwhelmingly-passes-brooks-protecting-young-victims-from-sexual.





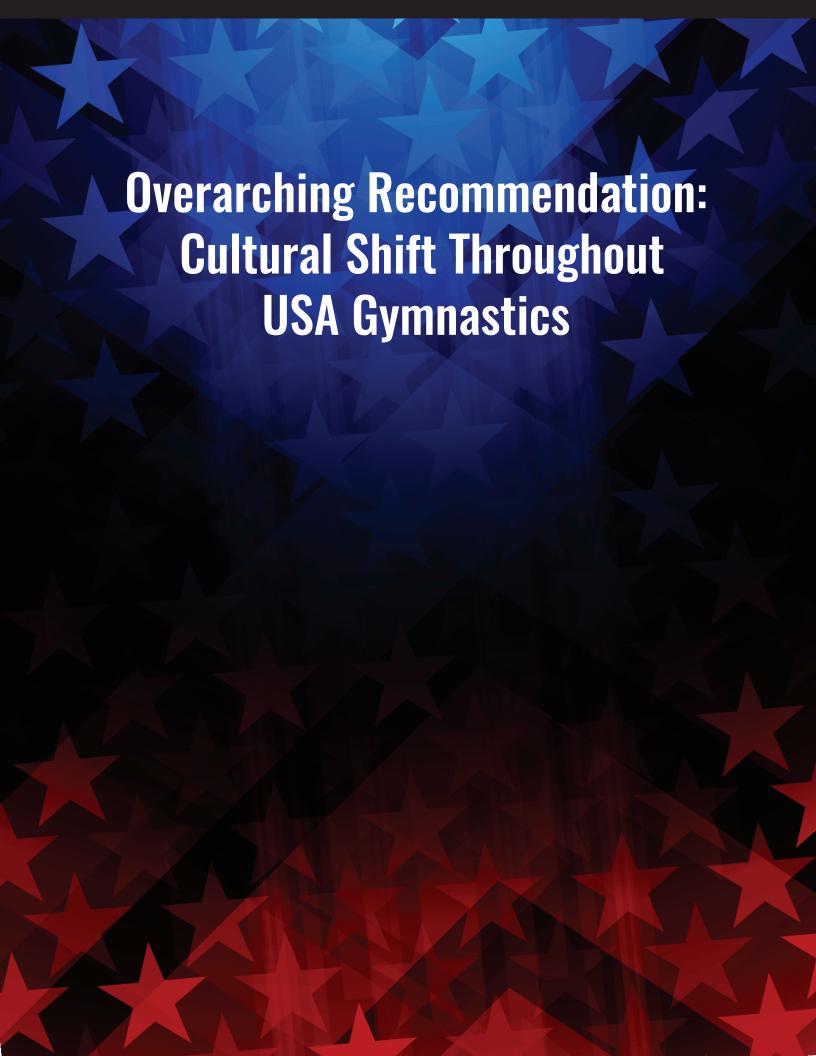


International Gymnastics Federation (FIG) Duty of Care Code Announced (June 2017)

The International Gymnastics Federation (FIG) is the governing body over gymnastics competitions in all countries. Each national gymnastics governing body answers to the FIG in terms of the rules of competitions, including the scoring rules; this set of rules is known as the Code of Points. It also determines the minimum age for competition in the Olympics; so it was the FIG that increased the minimum age to 16 from 14 after the 1996 Olympics.

On June 4, 2017, expressing a forceful no-tolerance attitude toward abuse and sexual harassment, the FIG announced that it will develop a code known as the "Duty of Care Code." While the specific details of the code are apparently yet to be devised, the announcement by FIG President Morinari Watanabe made the point that having rules, and educating people on the rules, is insufficient to ensure enforcement. He called for "severe sanctions" for rules violations, on the level of the sanctions currently applied to anti-doping violations.²⁵

²⁵ "International Gymnastics Federation to Develop Duty of Care Code," Inside The Games, June 4, 2017, http://www.insidethegames.biz/articles/1051124/international-gymnastics-federation-to-develop-duty-of-care-code.









OVERARCHING RECOMMENDATION: CULTURAL SHIFT THROUGHOUT USA GYMNASTICS

In order to protect the young athletes in its charge, USA Gymnastics needs to undergo a complete cultural change, permeating the entire organization and communicated to the field in all its actions. Further, USA Gymnastics needs to take action to ensure that this change in culture also is fully embraced by the clubs that host member coaches, instructors and athletes.

The culture that must be adopted is that USA Gymnastics' top priority is the safety and well-being of its athletes; not just their success on the field of play. Safety should be the primary focus of the organization. It is important to note that winning need not suffer as the result of a primary focus on safety and abuse prevention.

Praesidium describes these four aspects of effecting cultural change:

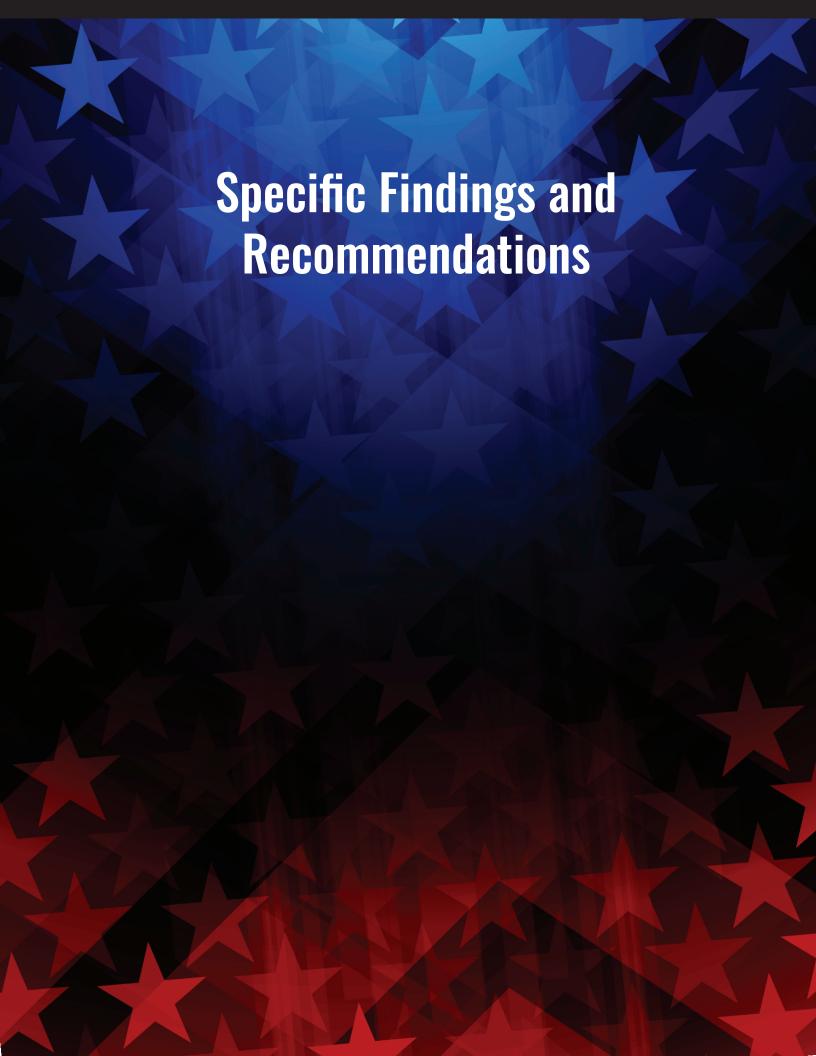
- A strong voice from the top of the organization
- Clear standards of behavior
- Provision of sufficient resources to assist in maintaining the standards
- Accountability

Each of the recommendations that follow embodies one or more of these four critical criteria for effecting cultural change.

As the following sections will recommend, the focus on athlete protection must be truly paramount. The words and deeds of the USA Gymnastics Board of Directors (Board) and the administrative leadership must embody this culture of protection. Clear standards of conduct must not only be created, but also enforced. And those in the field must be provided with the support necessary to maintain the standards; but beyond that, everyone from the top of the organization down through the member clubs must hold others accountable to meet the standards.

Individual recommendations focused on accomplishing this change will be provided throughout this report, grouped under the categories listed in the introductory portion of the following section of the report ("Specific Findings and Recommendations").

We believe, based on our extensive review, that only this kind of public shift in mind-set, including changes in practice and a culture of accountability throughout the organization, will enable USA Gymnastics to improve its ability to protect the young competitors in its charge, and other young aspiring athletes, from harm. The safety of countless young gymnasts throughout the country is dependent on the ability of USA Gymnastics to effect this cultural change.







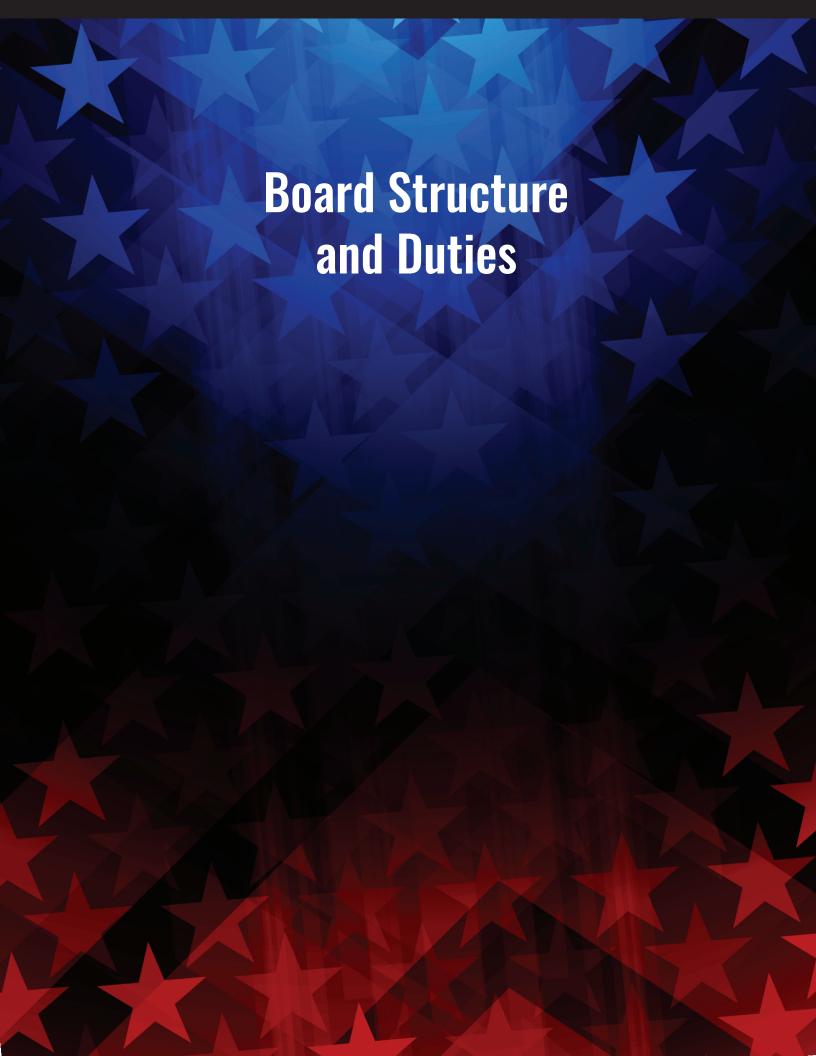


INTRODUCTION TO FINDINGS AND RECOMMENDATIONS

The Findings and Recommendations in this report span several specific aspects of the operation of USA Gymnastics. They will be addressed in this order:

- 1. Board Structure and Duties
- 2. Administrative Management of USA Gymnastics
- 3. Member Requirements and Enforcement
- 4. Screening and Selection of Coaches, Volunteers and Other Adults with Access to Athletes
- 5. Process for Filing Reports of Misconduct
- 6. Education, Training and Athlete Support
- 7. Encouraging Reporting of Suspected Violations
- 8. National Team Training Center
- 9. National Team Selection Process

The theory of change we advocate, as described above, must cascade throughout the organization in order to be impactful. These recommendations are not necessarily presented in order of importance; rather, the order of presentation demonstrates the cascading accountability that we suggest should occur throughout the organization.









Board Structure and Duties

Findings

Board Membership

The USOC intends that recent former athletes be active participants in NGB governance. The Ted Stevens Olympic and Amateur Sports Act (the "Stevens Act" or "Sports Act"), enacted in 1978 to govern the various bodies participating in the Olympic sports movement²⁶, requires the USOC and each NGB to "ensure that the membership and voting power held by...amateur athletes is not less than 20 percent of the membership and voting power held in the board of directors of [USOC] and in the committees and entities of [USOC]."²⁷ The term "athlete" is defined as limited to individuals no more than 10 years past their retirement from the sport. Thus, USA Gymnastics includes 5 individuals meeting this criterion on its 20-member board, who are elected from all persons who meet the "athlete representative" definition established by the USOC.

In addition, USA Gymnastics includes on its board a total of 7 representatives of the various gymnastics programs that comprise the organization, who are elected by the membership of those programs. They include the Men's and Women's Gymnastics Programs (2 representatives each), the Rhythmic Gymnastics Program, the Trampoline and Tumbling Gymnastics Program and the Acrobatic Gymnastics Program (one representative each).

An Advisory Council to the Board elects 3 members to the Board, without input from the Board. The Advisory Council is made up of representatives from the following independent gymnastics organizations:

- Amateur Athletic Union
- American Sokol Organization
- American Turners
- College Gymnastics Association Men
- Jewish Community Centers
- National Association of Collegiate Coaches Women
- National Association of Girls and Women in Sport
- National Association of Women's Gymnastics Judges
- National Collegiate Athletic Association Men
- National Collegiate Athletic Association Women
- National Association of Intercollegiate Gymnastics Clubs
- National Federation of State High School Associations
- National Gymnastics Judges Association Men
- National High School Gymnastics Association
- Special Olympics
- U.S. Association of Independent Gymnastics Clubs
- U.S. Competitive Aerobics Federation

²⁷ 36 U.S.C. §220504 (b)(2)(B).

²⁶ 36 U.S.C.§§220501-220529.







- U.S. Elite Coaches Association Men
- U.S. Elite Coaches Association Women
- U.S. Men's Gymnastics Coaches Association
- U.S. Rhythmic Gymnastics Coaches Association
- YMCA

This leaves USA Gymnastics with a total of 5 "independent" members: 4 "public sector" members plus the board chair. All five of these members, according to the Bylaws:

Should meet the following standards of independence for a period of two (2) years prior to the date upon which the Director's selection to the Board becomes effective:

- (1) Not receive any material compensation from USA Gymnastics, directly or indirectly, Excluding any cost or expense reimbursement;
- (2) Not be an owner, executive officer, controlling shareholder, controlling member or partner of a corporation, partnership or other business entity that conducted business with USA Gymnastics;
- (3) Not be an owner, executive officer, controlling shareholder, controlling member or partner of a corporation, partnership or other business entity that was a sport family entity with USA Gymnastics;
- (4) Not be an owner, executive officer, controlling shareholder, controlling member or partner of a corporation, partnership or other business entity that was a club member, financial partner with or a sponsor of USA Gymnastics;
- (5) Not be affiliated with or employed by USA Gymnastics' outside auditor or outside counsel; nor have any immediate family member was so affiliated or employed by such outside auditor or outside counsel as an owner, officer, partner, principal or manager;
- (6) Not be affiliated with any particular USA Gymnastics discipline as a Program Committee Chair or chair of any standing subsidiary committee; was an employee of USA Gymnastics; or have an immediate family member who was any of the foregoing or a member of any senior national team of any discipline of USA Gymnastics.²⁸

In recent years, at least one of those selected to fill the public sector positions has been a former gymnast.

This system, while certainly affording representation to a large number of constituency groups that are involved with or interact with USA Gymnastics, makes it difficult for the Board to follow the normal course governing board composition. In other words, it is difficult for the Board to seek people of varying skill sets to serve as members of a well-rounded board. It is also difficult to populate the

²⁸ Bylaws, Section 4.2(c). The Bylaws of USA Gymnastics are found in full on the USA Gymnastics web site, at https://www.usagym.org/PDFs/About%20USA%20Gymnastics/Governance/usag-bylaws.pdf.







Board with a variety of perspectives and viewpoints, including those from outside the world of competitive gymnastics, given the minimal number of "public sector" director positions.

Terms of Office

By operation of the USA Gymnastics Bylaws (Bylaws), board members may serve no more than two 4-year terms. When the board was reconstituted in 2007, however, certain members who had already been serving for a number of years were permitted to begin new terms under the new system, allowing them an additional 8 years of service. There is at least a perception externally that the Board, due to lengthy service on the part of some members, is somewhat self-perpetuating, leading to insularity. There is also a perception that the Board members do not think independently, based in part on their long-term service.

Conflicts of Interest

The Bylaws provide that Board members may not receive compensation for their service on the Board, but may receive payment from USA Gymnastics for other services performed for the organization. While this is not unusual, and generally the compensation appears to be minor, the policy could create circumstances in which Board members, desirous of maintaining their outside income, would not exercise independent judgment in Board decision-making.

The concern with regard to this issue is that Board independence, and its ability to hold USA Gymnastics' management accountable for meaningful actions to protect children, can be threatened when a member of the Board is reliant on USA Gymnastics for income. The independence of the Board and its commitment to holding management accountable is an important aspect of the protection of young athletes from adults who would abuse them.

Lack of training

The members of the Board do not receive training in child development issues, or child abuse prevention. In the absence of a full understanding of the factors at play, common behavior of child predators, and the dynamics surrounding a child victim of abuse, the Board cannot be expected to know what actions to take to best protect the young athletes for whom they are responsible.

No Board Handbook

We have learned that there is no official Board handbook, so members may have difficulty actually knowing the extent of their responsibilities. This can lead to confusion and a "follower" mentality on the part of a board member who is unclear about the extent of his or her responsibilities and authority.

Lack of Accountability

A review of the minutes of a number of Board meetings over time reveals that the Board does not act independently to hold management accountable for protecting children. For example, while there is an "Ethics, Grievance and Safe Sport" committee of the Board, it appears (based on minutes of its meetings) to spend most of its time reviewing compensation arrangements of Board members to determine whether to permit them under the Board's conflicts of interest policy.







In fact, the Board seems to spend very little time discussing "Safe Sport" issues (the term adopted by the USOC and its NGBs for child abuse prevention) at all. Most of the discussions center around preparation for and execution of major events, the status of the various teams, and the like.

We see no focus on the existence of reports of misconduct, the conduct of investigations of reported misconduct, or the resolution of such investigations in the minutes of either the Ethics Grievance and Safe Sport Committee or the Board itself. Further, there does not appear, based on the minutes of Board meetings, to be significant discussion of issues of concern to Board members: no apparent routine questioning of staff members, and no apparent provision of information on these subjects to the Board by the administrative staff.

Indeed, one former Board member and former three-time national champion rhythmic gymnast, who has alleged sexual abuse by the team physician at the National Team Training Center, testified before a U.S. Senate committee in March 2017 that most Board discussions during her tenure were about "money and medals." She testified that discussions about abuse allegations, to the extent they occurred, centered around the reputation of the coach rather than the allegations of the athlete. ²⁹ This former athlete and Board member also wrote an opinion piece for the New York Times that same month, outlining the matters about which she testified and repeating these comments. ³⁰

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²⁹ Testimony of Jessica Howard before the Committee on the Judiciary, United States Senate, March 28, 2017.

³⁰ "Cracking Down on Abuse in U.S. Gymnastics," *The New York Times*, March 15, 2017.







Board Structure and Duties

Recommendations

• Amend Bylaws to Clarify Priority of Athlete Well-being

While this recommendation, standing alone, will not change the culture of USA Gymnastics, it is an important start. There are aspects of the Bylaws that could easily be amended to begin sending a message. For example, Section 2.3 of the Bylaws is entitled, "Governance Philosophy. To encourage participation and the pursuit of excellence in all aspects of gymnastics." (Emphasis in the original.) The section goes on to provide:

- (a) The USA Gymnastics Board represents and serves its athletes and members, as well as the public trust, to ensure that the organization carries out the purposes for which it was established in a legal, ethical and accountable fashion. Authority and power are vested in the Board as a whole on behalf of the members.
- (b) In turn, individual USA Gymnastics Board members provide leadership, vision, independent thinking, the ability to rally individuals and groups in support of our mission, the wisdom to listen to members and constituents, and the foresight to approach diversity as an opportunity and not as an obstacle. We will work to fulfill our vision and mission through the 'heart and soul' of our organization our members in a family-like atmosphere.
- (c) We are committed to effective team governance and an efficiently managed organization that focuses its resources to address the needs of its growing membership. Together with our staff, our membership, and the clubs, organizations and communities that we serve, we will continue to create, support and further an ambitious agenda for the future. To achieve our strategic initiatives and our performance plan, effective governance will include a willingness to learn, openness to new possibilities, and an appreciation and respect for the achievements of the past.
- (d) The USA Gymnastics Board delegates the authority for organizational management to the President of the Corporation ("President"), as its Chief Executive Officer, while retaining ultimate accountability for the organization. This governance partnership is critical and serves as the key relationship in the governance structure and operations of the Corporation. We guarantee on-going communication, trust, transparency and respect to keep this partnership both viable and strong.
- (e) We will continue to explore innovative approaches to strengthen our governance structure and operations which will enhance our ability to be responsive, nimble and flexible. In addition, we will increase opportunities for those with an interest in the governance of USA Gymnastics to become







actively involved with and to lead the organization into the future.³¹

USA Gymnastics could easily include as part of its Governance Philosophy "the safety and well-being of athletes."

Further, Section 4.1, entitled, "Director", describes the powers of the Board, with certain "specific functions" enumerated. The section currently reads:

Authority. The business and affairs of the Corporation are the responsibility of the Board. The Board shall oversee the management of the Corporation and its affairs, but shall not manage the Corporation. The Board shall select the Corporation's President and diligently oversee him/her in the operation of the Corporation, empowering the President to manage a staff-driven organization with effective Board oversight. In addition, the Board performs the following specific functions, among others:

- (a) Implements procedures to orient new Board members, to educate them on the business and governance affairs of the Corporation and to evaluate Board performance;
- (b) Selects, compensates, and evaluates the President and plans for management succession;
- (c) Reviews and approves the Corporation's strategic plan and the annual operating plans, budgets, business plans and corporate performance;
- (d) Sets policy and provides guidance and strategic direction to management on significant issues facing the Corporation;
- (e) Reviews and approves significant corporate actions;
- (f) Oversees the financial reporting process;
- (g) Oversees effective corporate governance;
- (h) Approves financial strategies and long-range financial planning;
- (i) Reviews and approves financial statements, annual reports, audit and control policies, and, upon the recommendation of the Finance, Compensation and Audit Committee, selects independent auditors;
- (j) Monitors to determine whether the Corporation's assets are being properly protected;
- (k) Monitors the Corporation's compliance with laws and regulations and the performance of its broader responsibilities; and
- (I) Ensures that the Board and management are properly structured and prepared to act in case of an unforeseen corporate crisis.

This section could be amended to include the monitoring of USA Gymnastics' compliance with Safe Sport requirements.

There are undoubtedly other aspects of the Bylaws which could be amended to underscore USA Gymnastics' commitment to the protection of children from harm, whether physical, emotional or sexual. Again, standing alone these amendments cannot change the culture of USA Gymnastics; but they would serve as an important symbol of that cultural change and a statement that the Board takes its responsibility in this regard seriously.

³¹ Bylaws, Section 2.3.







Revise Board Selection Process

We recommend a revision of the Board selection process to broaden the skill set of the Board, increase the number of independent Board members, and obtain to the greatest extent possible diverse perspectives and independent input into Board decision-making.

The Board, based on its composition, which is heavily weighted toward people active in the gymnastics environment, gives the appearance of insularity. The selection process does not ensure a broad set of skills on the part of board members; nor does it ensure an independent Board focused on oversight. The Board has only 5 "independent" members out of 20; and often, some of those are people involved in the gymnastics world either as former gymnasts, parents of gymnasts, or other gymnastics enthusiasts.

The USOC provides a template to assist NGBs with developing bylaws that comport with USOC requirements and management recommendations. In the section on the board selection process, it encourages greater control by the Board over the selection process, even when certain Board members are to be representative of constituency groups. For example, it offers this sample language for the selection of a coach member of an NGB board:

The Nominating and Governance Committee shall solicit nominations of coaches who have obtained at least twenty-five (25) signatures of support each from current [NGB] member coaches. The nominees will be considered by the Nominating and Governance Committee. The Nominating and Governance Committee shall select three (3) individuals from those nominated who shall then stand for election. All current [NGB] member coaches shall then vote for the director....³²

This kind of approach, in which the Board selects three individuals it deems qualified from a group of individuals nominated by the constituent group, would give the Board increased control over the election of members, while also allowing the constituent group to provide a group of nominees to the Board and vote on the final selection.

It is of note that the commentary to the USOC template encourages that at least 50% of the board members of an NGB be independent members:

[Comment: It is recommended that at least 50% of the Board be independent members. Independent members bring general business acumen and other valuable expertise to the Board, without being burdened or influenced by internal sport politics. NGB Boards that are primarily populated with constituent members often encounter conflicts and political controversies that reduce the Board's effectiveness.]³³

While we are told that even the USOC considers the 50% goal difficult to achieve, USA Gymnastics' Board is certainly a long way from that figure.

We also hear from various sources that the President of USA Gymnastics has traditionally had significant control over the selection of the independent Board members. While presidents of

³² USOC Template for Bylaws of NGBs, Comment to Section 7.6, page 14.

³³ *Id.*, Comment to Section 7.5, page 13.







organizations generally provide welcome input into these decisions, an independent-minded Board with a strong Nominations and Governance Committee can provide important balance in this process.

Ensure that Term Limitations are Consistently Enforced

While it may be that the reason some people have served well beyond 8 years on the current board has to do with the reorganization of the board several years ago, it is recommended that the term limits of two 4-year terms be honored without exception. To do otherwise creates a perception of Board insularity and "group-think".

In many board settings, a member can return to the board after a hiatus, perhaps of a full term (in this case, 4 years). We recommend creating that kind of distance to encourage board turn-over and thus increased independence.

• Reduce or Eliminate Conflicts of Interest

We recommend that the Board consider amending the Bylaws to prohibit compensation by USA Gymnastics to Board members for even non-Board service to the organization. It may be possible to achieve the desired effect of minimizing conflicts of interest by permitting compensation for only certain types of service to the organization, such as judging of competitions.

At a minimum, if permitting compensation of Board members in some circumstances, USA Gymnastics' Board should require strict accountability and transparency of the process, meeting industry standards.

• Provide Abuse Training for the Board of Directors

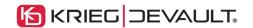
Members of the Board should receive annual training in child physical and emotional development, the dynamics of child abuse, and child abuse protection.

• Create, Maintain and Regularly Update Board Handbook

A Board handbook should be created, including the Bylaws, all pertinent policies, and other documents that Board members need to do their jobs well.

• Create Accountability for Protection of Children, Driven by Board

The function of the Ethics, Grievance and Safe Sport Committee should be changed, to make its focus that of organizational compliance with stringent requirements set by the Board for the protection of children. This accountability should include a random audit of member clubs to ensure that they are meeting the requirements set for them by USA Gymnastics (see additional recommendations below relating to members). Such audits should be conducted by the office of the new Director of Safe Sport at USA Gymnastics; but the Board, through its Ethics, Grievance and Safe Sport Committee but also as a full board, should monitor the audit findings and take action as necessary. In the alternative, a separate committee, with a singular focus on Safe Sport requirements and accountability for same, should be created. The committee should take primary responsibility for engaging in a more detailed review into available information than the full Board has the time or opportunity to accomplish.







In order for the Ethics, Grievance and Safe Sport Committee to take on this role, its function would need to be altered significantly. The committee would need to meet, at least by conference call, much more frequently. We would suggest monthly discussions by the committee, and regular reports to the full Board by the committee at Board meetings.

It should be noted that, among other things required by the Federal Legislation (see page 21), an annual audit by each NGB of compliance by member clubs with Safe Sport requirements will be mandated. The audit may, and necessarily will in the case of USA Gymnastics, be a random audit. USA Gymnastics cannot be expected to audit thousands of clubs each year.

The Ethics, Grievance and Safe Sport Committee, or some committee of the Board, should also be required to monitor, and report regularly to the Board on, reports of abuse (physical, emotional, sexual) or other code of conduct violations that are made, time to resolution, and the resolution of the reports. The Director of Safe Sport should be required to prepare and present such reports, and answer the Committee's and the Board's questions regarding the reports.

Increase the Number of In-Person Board Meetings

Currently, the Bylaws call for four total meetings of the Board each year, at least two of which are to be in-person. It is recommended that the Board increase the number of in-person meetings, for the purpose of enhancing its compliance efforts and increasing accountability of the organization.

• Ensure that Each Board Meeting Includes a Robust Discussion of Safe Sport Matters

It is critical that the Board exercise its accountability function in part by having a report at each Board meeting from the Director of Safe Sport, and focusing on compliance issues.

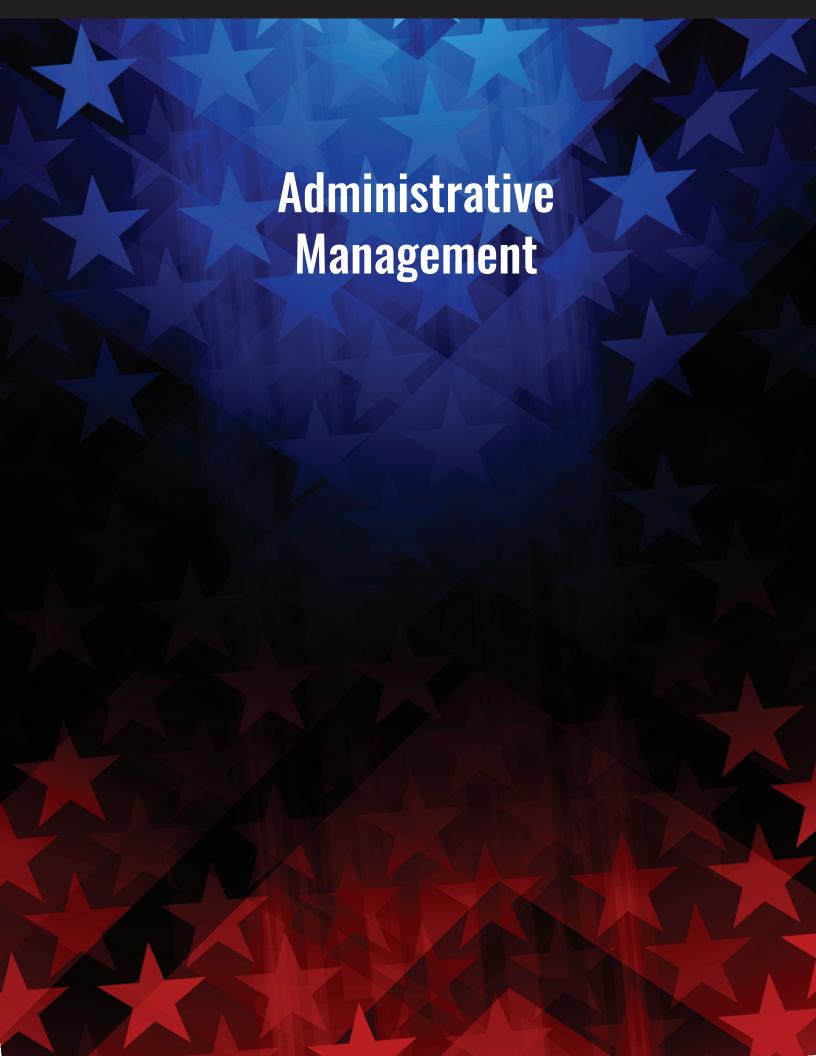
Hold an Executive Session at the Conclusion of Each Board Meeting

Many boards routinely conduct a discussion in executive session, outside the presence of the chief executive and all other staff members, at each meeting. This enhances the opportunity for independent thought on the part of board members, by encouraging individual members to speak their minds in a non-structured, open discussion about any matters that concern them. We are told that the USA Gymnastics Board does hold this type of executive session at each meeting. It is encouraged to continue that practice, excusing all staff (including the President); and record in its minutes that the Board went into executive session without revealing the specifics of the discussion.

Conduct an Annual Enterprise Risk Review That Routinely Includes Safe Sport Issues

Current best practice for the boards of both for-profit and not-for-profit boards includes regular analysis of risks to the organization and its mission. Thus, many boards of directors conduct an annual enterprise risk review and analysis, identifying risks ranging from financial risks to insurance risks to market share risks to risks to the ability of the organization to achieve its core mission. The risks tend to evolve from year to year, as some are resolved or remedied and new risks arise.

USA Gymnastics' Board should conduct such a review on an annual basis. While other risks will be added to or be removed from the agenda as they evolve, Safe Sport issues should always be included in the risk analysis. The overall review and analysis should be conducted by the organization's General Counsel (see below), reporting to the Board.









Administrative Management

Findings

• Premium Seemingly Placed on Winning Competitions at Expense of Safety

It is fully understandable that an organization whose function is to serve as a national governing body in the highly competitive international Olympic Games environment will focus a great deal of attention on developing top teams that will win medals at international competitions. This focus on winning competitions is encouraged by the USOC Performance Partnership Agreements (PPA) with NGBs. While the PPA's analysis is not limited to this factor, the number of medals attained by a team at the most recent international competition is a significant factor in the USOC's determination of the amount of funding to be provided to an NGB by the USOC.

However, NGBs are also responsible for the safety of the athletes. USA Gymnastics, given the age cohort of its competitors, particularly those in the Women's Program, as well as the dangers inherent in the sport and the other factors endangering young athletes as related elsewhere in this report, may be said to have a greater responsibility than some NGBs in that regard; and it has created a number of policies and educational opportunities to enhance the safety of young athletes.

Many factors have led observers to the conclusion, rightly or wrongly, that USA Gymnastics cares more about winning than about the safety of its athletes. Some of those factors are described below.

• Lack of Focus on Clear Job Descriptions, Qualifications

Historically, USA Gymnastics has hired or promoted some people within the administrative staff to senior positions based on familiarity rather than qualifications, including assignment of significant responsibilities with respect to the actions of the organization pertaining to the welfare of athletes. A lack of clear job descriptions and performance requirements appears to have contributed to this tendency. It also does not appear that any particular training was provided for these individuals when they assumed their roles.

• Excessive and/or Inappropriate Power in the Role of President

The governance structure makes it possible for the President of USA Gymnastics to wield a significant amount of control over the operation of the organization. While the President of any organization is expected to be a leader, even in terms of providing guidance to the Board, the Bylaws bestow considerable control on the President of USA Gymnastics.

While Section 7.1 of the Bylaws, describing the powers and duties of the President, is fairly standard fare in the corporate world, including the not-for-profit world, certain powers, granted either by the Bylaws or by the adoption of policy on the part of the Board, seem unique.

A prime case in point is found in Article 10 of the Bylaws, providing that all reports (referred to as "complaints" in Article 10) must be filed in writing with the President.







Further, Section 10.5(a) reads as follows:

Upon receipt of a Complaint, the President will determine (i) whether the Complaint complies with the requirements specified in Section 10.02 and 10.03; (ii) whether the Complaint is time barred pursuant to Section 10.04; (iii) whether the underlying facts and circumstances referenced in the Complaint give rise to an issue that is appropriate for resolution under these procedures; (iv) whether the Complainant has standing to file the Complaint; (v) whether the Corporation has jurisdiction over the matter; and (vi) whether the Complaint involves matters which the Corporation does not have the authority or ability to remedy. In making this determination, the President may consult with and rely upon an advisory panel selected by the President which consists of one or more Officers, Directors or attorneys ("Advisory Panel"). If the President determines that the Complaint does not satisfy the criteria specified herein, the President shall so advise the Complainant, and the Complaint shall be dismissed, and no further processing of the Complaint shall be required pursuant to this Article.

Section 10(b) gives the President the power to select an employee, member or agent of USA Gymnastics to conduct an investigation. That person is not to be a person "who is directly or indirectly involved in an occurrence that is the subject of the Complaint."

Section 10(e) provides that the President also has the power to determine the outcome of a complaint, unless the complainant prefers a three-person hearing panel.

A president of the organization thus has considerable control over how complaints, of any kind, are disposed of. A president who was not inclined to take reports of misconduct seriously, or who was concerned about tarnishing the reputation of the organization, or who was a friend of the respondent in the matter, would have the authority to dismiss the complaint, or choose not to pursue it, without the involvement of others. This report does not intend to suggest that any actions have been taken by any current or former president at USA Gymnastics based on such considerations; but it certainly would be possible under the current Bylaws.

Based on internal policy, the President is also currently one of two people in the organization authorized to receive reports of alleged abuse. It is inappropriate to have the chief executive performing such a function, particularly coupled with the sections of the Bylaws described above. Overall, there are simply inadequate checks and balances in the process to protect the integrity of the reporting and investigative process.

• Insufficient Staff Expertise to Protect Athletes from Abuse

It appears that little, if any, formal training of staff has been provided relating to child abuse prevention and the dynamics of child abuse, including the developmental and other factors that hinder reporting of abuse by victims — and in particular those victims who are enveloped in the environment of competitive gymnastics training. While one staff member, who counts among numerous duties the responsibilities related to the U.S. Center for SafeSport requirements, has apparently received some training through attendance at conferences during her tenure, she has apparently not been immersed in







the type of intensive training with respect to child physical and emotional development, child protection, proper investigation of reports, and state-mandated reporting requirements that should be required in such a role.

Beyond that, it does not appear that any other staff members, of the some 90 members of the employed and contracted national administrative staff and national team staff, have been required by USA Gymnastics to undergo such training.

No Staff Dedicated to Child Protection

Until very recently, USA Gymnastics has not made the decision to hire any staff whose sole responsibility is the protection of the athletes. When the USOC began a task force to consider developing what has now become the U.S. Center for SafeSport (Center), an independent body with jurisdiction over all NGBs and responsible for receiving and resolving reports of physical, emotional and sexual abuse, USA Gymnastics added to the duties of its Director of Administration and Olympic Relations the responsibility of serving on the task force. As the Center came closer to reality, this individual was given all Safe Sport related duties, including receiving reports of misconduct and assisting the President in determining how they should be resolved. This is a person with various other job responsibilities, who is not and cannot be focused solely on the protection of athletes.

However, in March 2017, USA Gymnastics posted a job description and request for applications for a new position, the Director of Safe Sport. It is expected that an individual will soon be hired into this position. This is an important, positive and productive move on the part of USA Gymnastics.

No Overall General Counsel for the Organization

USA Gymnastics retains different attorneys to perform different functions. Its primary attorney is an outside attorney who works with the Board and provides general legal advice, including such things as general corporate advice and contract negotiation. The organization separately contracts with counsel in various other states when the need arises for services in those states; they are overseen by separate outside counsel. Currently, there is an attorney and former prosecutor tasked with reviewing all reports of alleged abuse that come into the organization, and advising the organization on appropriate action. Another individual with legal training advises on general Safe Sport matters and has been responsible for assisting in the drafting of documents such as the Participant Welfare Policy.

However, there is no single person who serves in the capacity of a General Counsel, responsible for overseeing all legal work, contracting with outside lawyers for various services, overseeing those services, conducting periodic enterprise risk assessments, and generally bearing responsibility for and knowledge of all matters relating to which the organization might require legal advice or assistance.







Administrative Management

Recommendations

• Develop Position Descriptions for All Positions; Include Child Protection Requirements

While position descriptions do exist for every position on the USA Gymnastics staff, outlining clear qualifications and responsibilities for the position, they should be carefully reviewed. Anyone currently holding a position who does not meet appropriate qualifications for the role should not be grandfathered into the position; careful thought should be given as to whether such an individual should be moved to a position for which (s)he is qualified. Further, no position description should be written merely to reflect the qualifications of the individual currently holding the position in question. The position descriptions should reflect current standards in the field for each position.

Further, every position description in the organization should include a role related to the protection of young athletes from harm, including physical, emotional and sexual abuse. As part of the cultural change recommended at the outset of this report, it must be understood by every person working for USA Gymnastics that the protection of the athletes is a critical aspect of his or her job.

Seek Individuals With Expertise in Child Protection for Leadership Team

At least some members of the leadership team, who have supervisory authority over other members of the staff, should have some background in child protection and the dynamics of child abuse. It is critically important to infusing the entire staff with an understanding of its obligations in this regard that there be people in leadership positions with the organization who have some background not just in the gymnastics world but in the protection of children from physical, sexual and emotional abuse.

Seek Administrators With Fresh Perspective

To avoid insularity and "group-think", it is recommended that searches for leadership positions in the organization reach well outside the gymnastics world in order to at least consider people for these roles who come from a different background and can bring a fresh perspective to the organization. These are the individuals most likely to ask questions such as, "Why do we do this this way?" – always an important function within an organization.

Exclude President from Safe Sport Disciplinary Control

It is recommended that the President be removed from the current role of near-complete control over the disciplinary process. The current arrangement creates circumstances in which favoritism, personal biases, or concern about the reputation of the organization have the potential to take the place of objective judgment. The new Director of Safe Sport should be responsible for developing as independent a process as possible; see further recommendations below in relation to that process.







• Ensure Greater Accountability of President to Board

As suggested in the recommendations relating to the Board of Directors (see above), the Board should take steps to hold the President accountable. These steps should include:

- Identifying specific actions the Board wishes to see on the part of the President, in particular with regard to the recommendations in this report, with a timeline for completion
- Requiring a status report at each meeting on progress toward goals
- Having a robust discussion of Safe Sport matters at each meeting

The Safe Sport discussion should be in the nature of a high-level review of such matters as the number of reports received each month; number of pending cases; time to completion; reports made to law enforcement; and outcome of code of conduct violation investigations. We use the term "code of conduct violation" to refer to actions running the gamut from improper communications (e.g., prohibited communication via social media) to actual abuse; so not all of these will be reportable to law enforcement; and not all will be dealt with by the U.S. Center for SafeSport. See the section below on Processing Allegations of Misconduct.

Change Culture of Entire Staff to Athlete Safety First

Beginning with the position description changes (see above), in order to change the culture of an organization the word must continually and forcefully come from the top, beginning with the Board and the President, that athlete well-being is the primary focus of the organization.

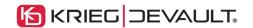
Training in the dynamics of child abuse, what constitutes abusive behavior, and the specific role of staff members in protecting athletes from abuse should be repeatedly delivered to everyone on staff, a minimum of once per year, in person (not on line). Every person in leadership must embrace and have responsibility for implementing the strategic plan developed by the Director of Safe Sport and adopted by the Board (see below).

Annual performance reviews of all staff members should include a review of how well each staff member has performed the functions in his/her position description related to athlete protection, reporting of suspected abuse, and other functions related to Safe Sport. Decisions regarding salary increases should be based, at least in part, on the individual's success in performing these particular functions successfully.

• Require Greater Accountability of Child Protection Function to Board

It has been suggested elsewhere in this report that the Board take on a more assertive role with respect to accountability. This should include a monthly written report from staff to the Board, even in months when the Board does not meet, relating to:

- Execution of the recommendations in this report
- Execution of the strategic plan developed by the Director of Safe Sport (see below)
- Updates on new reports of alleged or suspected abuse and code of conduct violations, age of reports, resolution







As indicated in the foregoing section on Board Structure and duties, a committee of the Board should be responsible for detailed review of such matters, with regular, higher-level reports to the full Board.

Require Strategic Plan from Newly Appointed Director of Safe Sport and Provide for Direct Reporting to Board

The Director of Safe Sport, once hired, should be instructed to develop a strategic plan outlining in detail the steps the organization must take to improve its performance with regard to the protection of children. At a minimum, the plan should address the recommendations made in this report.

The strategic plan should include an audit function and propose a workable method for conducting random audits of clubs around the country.

The Director of Safe Sport and the President should be responsible for execution of the plan, with a clear timeline, assignment of responsibilities, and accountability of individuals for each action to be taken. A strategic plan, if not effectively executed, will not achieve its intended goals.

The Board should approve the strategic plan and monitor its execution. The Board Chair should be briefed frequently on the progress toward execution; and the Board should discuss that progress with the President and the Director for Safe Sport at each meeting.

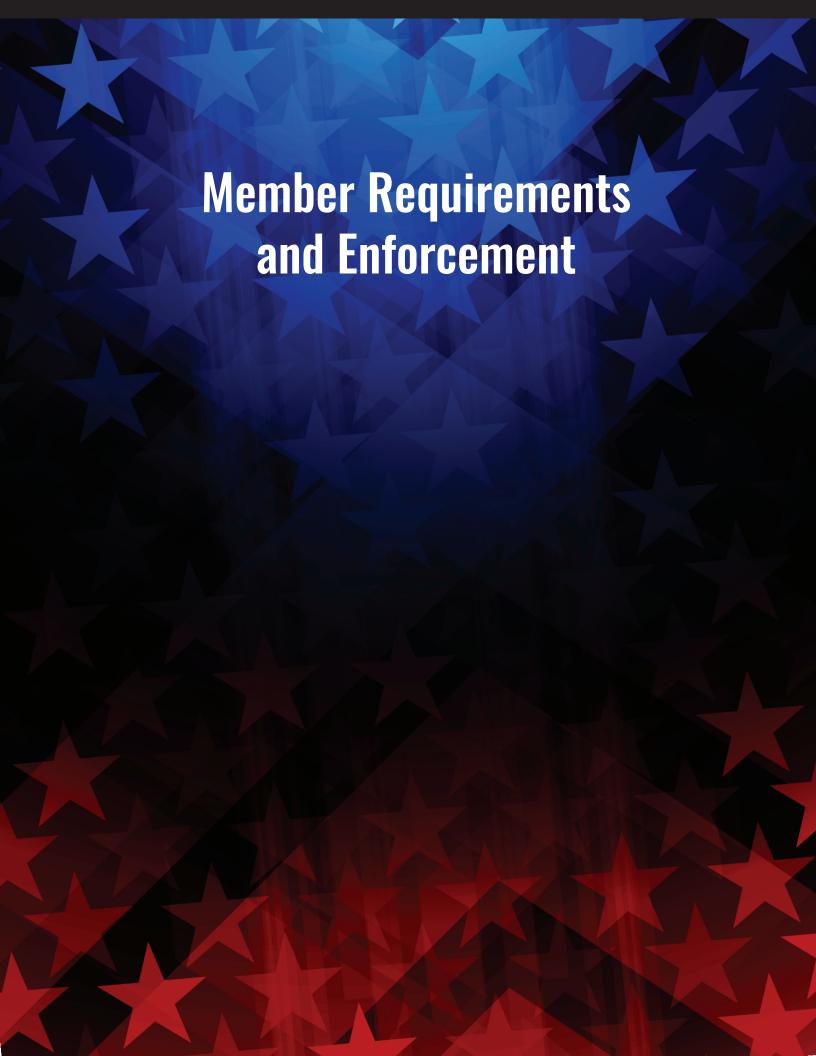
Because of the critical importance of the role of the Director of Safe Sport to the protection of the athletes who are entrusted to the care of USA Gymnastics, while the Director should be a senior official reporting directly to the President, (s)he should also have a direct reporting line to the Board of Directors.

Create General Counsel Role and Centralize Legal Functions

We have expressed in our findings that the legal work for the organization is somewhat diffused, with different attorneys responsible for different functions and with no single general counsel overseeing all legal functions.

It is our understanding that USA Gymnastics has been moving closer in recent years toward the centralization of all legal services under a single attorney. We recommend that this occur, so that there will be one person with overall knowledge of and responsibility for all legal matters, risk assessments, and other matters requiring the input of an attorney. This person would certainly contract with other attorneys for various functions, and would oversee their work, reporting to management and the Board. The general counsel would also be responsible for the annual enterprise risk assessment recommended in this report.

We do not express an opinion on whether the position should be in-house (i.e., a full-time employee of the organization) or in the role of an independent contractor/outside general counsel. It is the duties that we recommend be consolidated.









Member Requirements and Enforcement

Findings

• Belief By USA Gymnastics That It Lacks Ability to Exert Influence and Control Over Clubs

Because of the fact that USA Gymnastics member clubs are private, independent businesses, USA Gymnastics has long held the belief that while it can exhort member clubs to enforce Safe Sport policies, it cannot require them to do so.

Participant Welfare Policy as of Mid-June 2017

For example, while USA Gymnastics takes a strong stance in its "Participant Welfare Policy" in terms of the importance of protecting athletes from abuse, it introduces the subject to the member clubs in this manner in the opening paragraphs of the policy:

Consistent with the mission of USA Gymnastics, the welfare of gymnastics participants, especially minors, is of paramount concern. When any member, participant, coach, official, volunteer or staff member is subjected to abuse, whether physical or sexual, it undermines the mission of USA Gymnastics and is inconsistent with the best interests of the sport of gymnastics and of the athletes USA Gymnastics serves.

USA Gymnastics is committed to promoting a safe environment for its members, participants, coaches, officials, volunteers and staff in all gymnastics disciplines. While there are limits to what USA Gymnastics can do, e.g., at the local level because USA Gymnastics does not own, operate or otherwise control gyms or gymnastics clubs, USA Gymnastics has adopted this policy to set forth the efforts it will undertake to promote a safe gymnastics environment, both solely and in partnership with other necessary parties, including member clubs, registered businesses, parents, athletes and the gymnastics community.³⁴

Section 9 of the policy repeats this theme:

Recommendations to Gymnastics Clubs/Businesses. USA Gymnastics does not operate gymnastics clubs, but rather gymnastics clubs/businesses are operated independently at the local level. USA Gymnastics respects the autonomy of local clubs/businesses to operate as they deem appropriate. Even though USA Gymnastics does not and cannot control the activities or operations of local clubs/businesses, it invites local clubs/businesses to join with USA Gymnastics in taking affirmative steps beyond those described in Section 8 above to promote a safe environment for all gymnastics participants, such as by:

a. Adopting "standards of behavior" for staff and volunteers working directly with minors to foster a safe gymnastics environment and to prevent abusive situations, and by training staff and volunteers to implement such standards;

³⁴ USAG Participant Welfare Policy as of Mid-June 2017 (See Exhibit A), https://www.usagym.org/pages/aboutus/pages/welfare_policy.html; italics added.







- b. Implementing a thorough hiring process including, for example, reference and criminal background checks;
- c. Encouraging parents to become as active as reasonably possible in his/her child's gymnastics activities; and
- d. Otherwise implementing policies and procedures to lessen the likelihood that an abusive situation could develop.³⁵

The requirements for clubs to maintain their memberships are found in Section 8 (referred to in Section 9, above):

Registered Businesses and Member Clubs. As a condition to being granted the privilege of membership in USA Gymnastics as a Registered Business or Member Club, a club/business *must agree to and comply with the following requirements* for the entirety of the club's/business' membership period, certification of which must be made annually:

- a. Have a policy consistent with USA Gymnastics' Participant Welfare Policy that affirms the club's/business' commitment to the welfare of gymnastics participants in its organization and includes, at minimum, a description of conduct that will not be tolerated, standards of behavior for its staff/volunteers that promote participant welfare, and a process for receiving and handling complaints regarding conduct that violates its policy.
- b. Certify that no persons permanently ineligible for USA Gymnastics membership and no persons listed on a federal or state sex-offender registry are or will be associated with the club/business or its activities in any way.
- c. Maintain current commercial general liability insurance that includes at a minimum, participant liability and participant accident medical insurances.
- d. Employ at least one staff member who is 18 years of age or older and holds a current Professional or safety-certified Instructor membership in USA Gymnastics.
- e. Have a mission statement consistent with USA Gymnastics' mission to encourage participation and the pursuit of excellence in all aspects of gymnastics.³⁶

We found not only that subsection a. above is vague and non-prescriptive, but also that many club owners interviewed by our team were unaware either of the need to have such a policy, whether their club had such a policy, or both. They were generally aware of requirements b. through d., but as indicated in the General Findings (above), did not necessarily understand the source of certain of the requirements, and did not in all instances comply.

Because USA Gymnastics has the ability to grant or deny membership privileges, and clubs that wish to compete an athlete in a USA Gymnastics-sanctioned event must be members, we believe that USA Gymnastics has far more leverage over the behavior of member clubs, professional and instructor

³⁶ *Id.*, Section 8; italics added.

³⁵ *Id.*, Section 9; italics added.







members, and even those not currently members than its staff and board have previously understood to be the case.

USA Gymnastics Updating Participant Welfare Policy

During the preparation of this report, we learned that USA Gymnastics is in the process of revising its Participant Welfare Policy to align it with the policies of the U.S. Center for SafeSport. The new policy will likely be more prescriptive, requiring the clubs to adopt certain specific prohibitions on certain conduct; see below.

Insufficient Definition and Enforcement of Athlete Protection Requirements

Participant Welfare Policy as of Mid-June 2017

The Participant Welfare Policy, as of mid-June 2017, recommends but does not require certain actions. It provides definitions of abuse and discusses legal reporting requirements. Under the section on Reporting Suspected Abuse, the policy provides that "any person who reasonably and in good faith believes a member of USA Gymnastics has abused another person, whether physical or sexual, such person may notify the USA Gymnastics National Office pursuant to Articles 9 and/or 10 of the USA Gymnastics Bylaws."³⁷

This section is insufficient to achieve the goal of preventing and sanctioning abuse. First, the language is permissive, not mandatory – reports are not required. Second, if clubs choose not to adopt the policy, they may not even be aware that they should report suspected abuse, not to mention other inappropriate interactions, to USA Gymnastics. In fact, interviews with member clubs indicate that many clubs do not report suspected abuse or inappropriate interactions to USA Gymnastics. For example, one club reported that it had fired a staff member for inappropriate texts with a youth. This information was not reported to USA Gymnastics.

The Participant Welfare Policy in place as of mid-June 2017 also includes limited information on standards of behavior. Accordingly, the policy addresses the following:

- Avoid being alone with a minor
- Physical Contact
- Parental Monitoring

However, the policy does not place clear proscriptions on what constitutes unacceptable conduct.

Revision of Participant Welfare Policy June 2017: "USA Gymnastics Safe Sport Policy"

However, USA Gymnastics has been working in 2017 on a revision and re-branding of the Participant Welfare Policy, in order to align it with the policies of the U.S. Center for SafeSport. The revised policy will be referred to as the "USA Gymnastics Safe Sport Policy". A draft reviewed prior to board approval reveals that USA Gymnastics proposes to adopt specific restrictions on behavior, and will require that member clubs also adopt, at a minimum, those same restrictions. The restrictions, referred to in the language of the U.S. Center for SafeSport as "proactive policies", include:

³⁷ *Id.*, Section 3.







- No one-on-one interactions between a "Covered Adult" and a minor in any situation not observable and/or within earshot of another adult.
- No living arrangements involving a gymnast and an unrelated "Covered Adult".
- No traveling alone by a Covered Adult with a minor.
- Restrictions on the use of social media and electronic and mobile communications.
- Restrictions on the use of photography/videography.
- O No interactions between Covered Adults and gymnasts in any room where there is a reasonable expectation of privacy (e.g., locker room, restroom, changing area).
- No gift-giving or provision of special favors or special privileges to individual gymnasts.
- Restrictions on who may massage, ice or tape a gymnast and restrictions on the methodology in order to limit opportunities for abuse.
- Restrictions on the types of stretches and other physical contact in which Covered Adults are permitted to engage with athletes.

A "Covered Adult" is a person over age 18 and under the jurisdiction of USA Gymnastics, including members, applicants for membership, people who were members at the time they engaged in prohibited conduct, USA Gymnastics staff, board members and others authorized by USA Gymnastics to be in a position of authority with athletes or to have frequent contact with athletes.

All Covered Adults under the proposed new policy³⁸ are required to report child abuse or neglect, including sexual misconduct, to proper authorities, including the U.S. Center for SafeSport and law enforcement authorities. They are also required to report violations of the "proactive policies" listed in the proposed policy, first to the member club at which the action occurred. Clubs are to report resolutions of such matters to USA Gymnastics. If the report is not resolved satisfactorily by the member club, the reporting party may request resolution by USA Gymnastics.

The term "Covered Adult" does not appear to include every person this report recommends be included under the jurisdiction of USA Gymnastics. For example, it does not include people authorized by member clubs (as opposed to USA Gymnastics) to be in a position of authority over or otherwise have access to minors in the gym setting. This would include volunteers as well as coaches at member clubs who coach non-member athletes. However, it is a significant improvement over prior policy.

Code of Ethical Conduct

USA Gymnastics has also developed a Code of Ethical Conduct (Code) for its members, which is found on the USA Gymnastics web site.³⁹ The Code is attached to this report and marked "Exhibit B".

The introduction to the Code reads as follows:

The mission of USA Gymnastics is to encourage participation and the pursuit of excellence in all aspects of gymnastics. USA Gymnastics grants the privilege of membership to individuals and organizations committed to that mission. USA Gymnastics may, therefore, withdraw the privilege of membership or discipline a member where USA Gymnastics determines that an individual or organization's conduct is inconsistent with the mission of USA Gymnastics or the best interest of the sport and those who participate in it.

³⁸ It is anticipated that the USA Gymnastics Board will vote to adopt the policy at its June 25, 2017 meeting.

 $^{^{\}rm 39}$ https://www.USA Gymnasticsym.org/pages/aboutus/pages/code_of_ethics.html.







This statement is unclear as to its commitment to protect young athletes from abuse, other than in the final clause relating to conduct "inconsistent with...the best interest of the sport and those who participate in it." This language is vague and does not create an impression that athlete safety comes first. However, when coupled with the language of the separate Participant Welfare Policy, the stated mission of USA Gymnastics becomes more clear. By failing to consolidate some of its many separate policies into one, USA Gymnastics misses an opportunity to send a clear message to all its constituencies of athlete safety first.

Certain sections of the Code relate to what is deemed to constitute misconduct on the part of a member. Section II.A. provides:

A. Participant Relationships

Members of USA Gymnastics are charged with the responsibility for contributing to an environment that makes participation in the sport a positive and rewarding experience. To achieve that result, each professional and club/business Member has a special obligation to make decisions based on the best interest of the athlete. It is inconsistent with this obligation for any Member to:

- 1. Fail to follow the safety guidelines established by USA Gymnastics, or otherwise knowingly subject a participant to unreasonable physical or emotional risk.
- 2. Engage in conduct that is unfair including, in particular, attempting to injure, disable or intentionally interfere with the preparation of a competitor.
- 3. Engage in conduct toward another participant in the sport that is abusive. USA Gymnastics recognizes that the process for training and motivating athletes varies with each coach and each athlete, but it is nevertheless incumbent on everyone involved in the sport to support the development and use of motivational and training methods that avoid conduct that is, or is likely to be perceived as being, abusive.
- 4. Attempt to intimidate, embarrass or improperly influence any individual responsible for judging or administering a competition.

Point 3 prohibits a person from "[e]ngag[ing] in conduct...that is abusive", and states that "it is ... incumbent on everyone involved in the sport [to] avoid conduct that is, or is likely to be perceived as being, abusive." While the term "abuse" is defined in the Participant Welfare Policy, the term "abusive" is not defined in the Code. Even if it were, the prohibition on conduct is vague; it would be difficult to lodge a sustainable accusation of conduct that met this criterion.

Section II.H. addresses sexual misconduct:

H. Sexual Misconduct.

Members of USA Gymnastics are expected to promote a safe environment for participants, coaches, officials, volunteers and staff in all gymnastics disciplines, which includes an environment free from sexual misconduct. It is inconsistent with this obligation for any Member to:







- 1. Solicit or engage in sexual relations with any minor.
- 2. Engage in any behavior that utilizes the influence of a professional Member's position as coach, judge, official or administrator to encourage sexual relations with an athlete or participant.
- 3. Engage in sexual harassment by making unwelcome advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where such conduct creates an intimidating, hostile or offensive environment.

While this language is more clear, it still would be difficult to employ it to discipline a person who is engaged in potential grooming conduct, such as tickling, gift-giving, or "friending" on social media.

Subsection I., immediately following, discusses the circumstances under which sexual relationships between professional members, such as coaches, and athletes, are permitted:

I. Sexual Relationships.

Professional Members of USA Gymnastics must protect the integrity of the sport and the interests of the athletes they serve by avoiding sexual relationships with athletes except where the capacity and quality of the athlete's consent to enter that relationship is beyond question.

This language is somewhat confusing when juxtaposed with the prior section. It clearly permits some sexual relationships between coaches and the athletes they coach. Further, this subsection is in conflict with the newly-promulgated SafeSport code of the U.S. Center for SafeSport (SafeSport Code). The conduct labeled as "sexual misconduct" and thus prohibited by the SafeSport Code is described as follows:

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

- a. Sexual Conduct (or attempt to commit the same) between a Covered Adult and a Minor where the age difference is three or more years.
- Sexual Conduct (or attempt to commit the same) between a Covered Adult and a Minor where the age difference is less than three years, but a Power Imbalance exists.
- c. An Intimate Relationship (or attempt to establish the same) between a Covered Adult and a Minor where the age difference is three or more years and a Power Imbalance exists.
- d. Sexual Conduct between a Covered Minor and another Minor if: (1) the age difference is three or more years, or (2) there is a Power Imbalance based on the totality of the circumstances.⁴⁰

The definition of Power Imbalance is critically important to the determination of whether a sexual misconduct offense may have occurred. The definition is based on a totality of the circumstances determination. Of particular note are these two subsections:

⁴⁰ SafeSport Code for the U.S. Olympic and Paralympic Movement, *supra* note 16, Section III.A.2.







- a. Whether someone occupies a Position of Power such that there is a Power Imbalance depends on several factors, including: the nature and extent of the supervisory, evaluative or other authority over the person; the actual relationship between the parties; the parties' respective roles; the nature and duration of the relationship; the age of the adult; the age of the people involved.
- b. Once a coach-Athlete relationship is established, a Power Imbalance is presumed to exist throughout the coach-Athlete relationship (regardless of age) and is presumed to continue for Minor Athletes after the coach-Athlete relationship terminates and the Athlete reaches 20 years of age....⁴¹

We expect that USA Gymnastics will be adopting policies that align with the Center's SafeSport policy, and that the ambiguity in its current policy will be corrected as a result.

The USA Gymnastics Code of Ethical Conduct contains an enforcement provision, but it is clearly primarily a voluntary system, again based on USA Gymnastics' belief that it does not have the power to control member clubs. Section III., Enforcement of the Code, provides:

Compliance with this Code depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peers, and, when necessary, upon enforcement through disciplinary action.

Any Member ('Complainant') who believes that another Member of USA Gymnastics has failed to meet such Member's obligations under this Code is, under all but the most egregious circumstances, encouraged to first address that concern directly to that Member. If that action does not result in a satisfactory resolution, the Complainant may file a written complaint with the President, program director or other appropriate staff member of USA Gymnastics. That complaint must be signed and state specifically the nature of the alleged misconduct.

Upon review and consideration of the complaint, which may include written notice to both parties and an opportunity for response, and, where appropriate, additional discussions with the parties; the President or his/her designee may:

- 1. Determine that the complaint does not merit further action, or
- 2. Refer the complaint, as appropriate, to the state or regional chairs/committees or affiliated organization.

If the complaint has not been disposed of as specified in 1 or 2 above, then, after providing written notice to both parties and an opportunity for response, and, where appropriate, additional discussions with the parties, the President or his/her designee may:

- 1. Counsel the Member who is the subject of the complaint and record both the complaint and the nature of the counseling in the Member's permanent record, or
- 2. Impose an appropriate sanction or an appropriate relief, or

⁴¹ *Id.*, Section II.V.1.







3. Process the complaint under Article 9 and/or 10 of USA Gymnastics' Bylaws. 42

This enforcement mechanism requires the athlete, "under all but the most egregious circumstances," to address her concern directly to the offender. If the matter is not satisfactorily resolved, she is to file a written, signed complaint with USA Gymnastics. From there, the enforcement mechanism is similar to, and may ultimately conclude with the use of, Article 10 of the Bylaws (see above). Requiring an athlete to confront her coach, or another adult in a position of authority over the athlete (what the U.S. Center for SafeSport calls an "imbalance of power") would be inappropriate and counterproductive. Athletes who read this provision will likely be deterred from reporting.

Clubs Are Not Required to Report Physical or Sexual Abuse to USA Gymnastics or to Law Enforcement Authorities

The Participant Welfare Policy in effect as of mid-June 2017 includes this language:

<u>Legal Reporting Requirements.</u> USA Gymnastics will follow applicable law in reporting abusive situations to the proper authorities. If, in USA Gymnastics' reasonable and good faith judgment, reporting to the proper authorities is necessary to protect a person from the possibility of further abuse, it may make such report even if not compelled by law to do so.⁴³

Reporting Suspected Abuse. Any person who reasonably and in good faith believes a member of USA Gymnastics has abused another person, whether physical or sexual, such person may notify the USA Gymnastics National Office pursuant to Articles 9 and/or 10 of the USA Gymnastics Bylaws.⁴⁴

Under this policy, members, while they "may" notify USA Gymnastics of suspected abuse, are not required to do so. USA Gymnastics also does not require members to report suspected abuse to law enforcement authorities. Members are similarly not required to report any lesser violations, such as sexual comments or other grooming behavior, to USA Gymnastics or any authority.

It is our understanding that the revised and re-branded policy will take a much stronger position in terms of mandating reporting of misconduct.

• Persons With Ownership Interest In Clubs Are Not Required To Be Members

While the clubs themselves, if they wish to enter an athlete in USA Gymnastics-sanctioned competition, must be members of USA Gymnastics, there is no requirement that the owners of the clubs be members. This limits the ability of USA Gymnastics to hold them accountable for compliance with Safe Sport requirements.

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⁴² Code of Ethical Conduct, USA Gymnastics, https://www.usagym.org/pages/aboutus/pages/code_of_ethics.html. See also Exhibit B.

⁴³ Participant Welfare Policy, Section 2; see Exhibit A.

⁴⁴ *Id.*, Section 3.







Volunteers In Clubs Are Not Screened Or Held Accountable For Athlete Protection

Throughout the country, in many child-serving organizations heavy with volunteers (e.g., Boy Scouts, Girl Scouts, Big Brothers Big Sisters, Boys & Girls Clubs), criminal history checks are required for those wishing to volunteer to work with children. Some states require this screening.

However, USA Gymnastics does not require member clubs to screen volunteers, and does not have a mechanism for holding volunteers to the same standards to which people employed by the clubs to coach USA Gymnastics member athletes are held.

Those Who Coach In Member Clubs Not All Under USA Gymnastics Jurisdiction

Individual membership is required for participation as a coach, judge, or athlete in USA Gymnastics sanctioned events.

Coaches, judges, officials and meet directors are referred to as "professional members." According to document review and interviews, USA Gymnastics requires professional members to comply with the following:

- USA Gymnastics Code of Ethical Conduct
- Background checks through the National Center for Safety Initiatives (every two years)
- USA Gymnastics Safety and Risk Management Certification (required every four years for professional members only, and including a chapter with information on sexual abuse prevention)
- Fundamental Gymnastics Instruction Course

Another tier of membership, instructor membership, is available for gymnastics coaches, teachers and instructors who do not participate in sanctioned events. Similar to professional members, instructor members complete a USA Gymnastics background check through the National Center for Safety Initiatives (NCSI), a private company operating under guidelines established by the National Council on Youth Sports. On the other hand, instructor members are not required to complete the USA Gymnastics Safety and Risk Management Certification course.

Only those coaches who are involved in the training of athletes who compete in USA Gymnastics sanctioned competitions are required to be members of USA Gymnastics. Coaches who are employed by member clubs, but who do not coach such competitors, are not required to be members of USA Gymnastics and thus are able to escape its jurisdiction. Our research revealed stories of coaches who, even with a history of abusive or grooming behavior, managed to coach in a member club based on this loophole.

USA Gymnastics Does Not Ensure that All Clubs Adhere to the Required Membership Standards

In 2001, USA Gymnastics established requirements for member clubs. Accordingly, any gymnastics club, independent organization, and/or committee that intends to host USA Gymnastics sanctioned events, or register or compete a team of athletes in a USA Gymnastics sanctioned







competition, must become a member of USA Gymnastics. Furthermore, organizations must comply with the following requirements⁴⁵:

- Adopt a Participant Welfare Policy "consistent with" USA Gymnastics' policy
- Not hire or be associated with any person on the ineligible list or who is listed on federal or state sex-offender registry
- Maintain current commercial general liability insurance
- Employ at least one employee who is a current professional or safety-certified instructor member in USA Gymnastics
- Have a mission statement "consistent with" USA Gymnastics' mission

According to interviews with various professional members and member clubs, the individual, professional and instructor membership requirements are strictly enforced by USA Gymnastics and the member clubs. Individual members are responsible for renewing their membership and following the safety certification and background check requirements as outlined by the membership requirements. The member clubs then have the ability to review professional membership status through USA Gymnastics' online membership database. In addition, USA Gymnastics members are required to present their membership number or membership card when participating in USA Gymnastics sanctioned events. If the membership is not current, that individual is not allowed to participate in the event. Member clubs typically monitor professional membership closely, because each member club is required to have a professional member.

While USA Gymnastics has requirements for two levels of membership and enforces these requirements, not every coach or volunteer who works with USA Gymnastics athletes or in a USA Gymnastics club is required to be a member of USA Gymnastics. In fact, it is not uncommon in smaller clubs for only one coach to be a professional member. Therefore, USA Gymnastics has little to no jurisdiction over a large subset of coaches in the gymnastics community. While interviews and site visits indicated that most, if not all clubs, comply with the requirement to have a minimum of one instructor or professional member, many club owners did not associate that requirement with the Member Club regulations, but instead with the requirement to have a coach on the floor of a USA Gymnastics sanctioned event.

With regard to compliance on the part of clubs, interviews within the gymnastics community revealed that many of the clubs do not strictly adhere to all of the member club requirements. For example, interviews during site visits indicated that several member clubs do not have a Participant Welfare Policy as required by USA Gymnastics. Instead, for those clubs that have policies regarding participant welfare, these policies were normally developed through the club owner's personal experience, legal advice, or information from other youth serving organizations. It appears that for the most part, only the clubs training elite athletes have adopted the Participant Welfare policy developed by USA Gymnastics. Further, while most club owners are familiar with the requirement that they not hire any person on the permanently ineligible list, some clubs reported not actively checking the list

⁴⁵ See Participant Welfare Policy, Exhibit A. The requirements are expected to become more prescriptive and stringent upon adoption of the USA Gymnastics Safe Sport Policy.





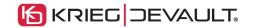


when hiring new coaches. Finally, many club owners were unfamiliar with the mission statement and insurance requirements.

Interviews of USA Gymnastics staff indicated that club memberships are not as closely monitored or enforced as individual memberships. In fact, USA Gymnastics only verifies a completed club application and payment for each member club. Consequently, USA Gymnastics does not have a formal procedure in place for suspending or revoking club membership if a club is not following the USA Gymnastics member club requirements.

 Clubs Do Not Consistently Check the "Permanently Ineligible" List When Hiring; or Hire Despite Prior History of Questionable Conduct

As indicated in the General Findings, above, our research revealed that clubs are inconsistent around the country in terms of checking an individual against the USA Gymnastics Permanently Ineligible list. There is also evidence (see description of Ray Adams multiple employments on page 18) that clubs desperate for gymnastics coaches are sometimes willing to overlook red flags related to a person's prior conduct at other clubs.







Member Requirements and Enforcement

Recommendations

• Require That Owners of Member Clubs Also be Members of USA Gymnastics

In order to better enforce compliance with the enhanced requirements recommended elsewhere in this report, we believe it is essential that any person with an ownership interest in a member club also be a member. That membership, and the ability to own a member club, should be at risk if the club is persistently non-compliant, or fails to be compliant in an egregious way, such as failing to report suspected child abuse to the proper authorities.

Require That Every Person Working or Volunteering With Youth in Any Member Club Also Be a Member of USA Gymnastics

A mechanism is needed to ensure that Safe Sport policies are enforced as to every adult in every member club – including volunteers and adults who do not interact with member athletes but interact with other minors. We were prepared to recommend either membership on the part of all adults working or volunteering in these clubs, or, short of that, required enforcement by the clubs as to all their employees and volunteers; but in fact, during a meeting with the Board's Policy Review Panel⁴⁶, it was the members of that Panel who strongly suggested that all adults who have access to children in member clubs should be required to be members.

This was also one of the recommendations of a group of former elite gymnasts in 2012, according to a story in *The Indianapolis Star* on October 8, 2016. Those gymnasts, according to the article, recommended several changes in the policies and practices of USA Gymnastics. Among their recommendations was that the jurisdiction of USA Gymnastics should be extended to "include all personnel, including volunteers, at member gyms." We feel, and the Board's Policy Review Panel agrees, that the most effective way to obtain jurisdiction over all these individuals is to require that they be members, regardless of whether they are coaching member athletes.

Some may express concern about the cost of membership. In response, we suggest that the current cost of membership, even for member clubs, is quite low. There can be cost-effective means of extending membership to these other parties, including volume discounts for clubs or a lesser fee for volunteer members while covering basic costs such as the background check.

⁴⁶ In December 2016, the Board Chair established a "Policy Review Panel" of the Board, charged with reviewing all policies of USAG, including policies potentially impacted by this report. We met with representatives of the Policy Review Panel in May 2017 to discuss our preliminary findings and recommendations, and to seek their input regarding factual issues and current policy as well as their reactions to the preliminary findings and recommendations.

⁴⁷ "Prominent Gymnasts Renew Call for Change," *The Indianapolis Star,* October 8, 2016, http://www.indystar.com/story/news/investigations/2016/10/08/prominent-gymnasts-renew-call-change/91465112/.







Strengthen Current Code of Ethical Conduct and Participant Welfare Policy and Require **Adoption In Full by Member Clubs**

The Board is in the process of revising its Participant Welfare Policy (see above) to cause it to conform more closely to the policies promulgated by the new U.S. Center for SafeSport. We recommend that among those revisions be very clear and prescriptive requirements as to what must be a part of the clubs' own policies.

It should be noted that the group of former elite athletes who developed recommendations for USA Gymnastics in 2012 (see page 51) also recommended, according to The Indianapolis Star, that "[c]lubs be required rather than encouraged to adopt policies and procedures designed to prevent sexual misconduct and agree to be subject to USA Gymnastics jurisdiction."

In conjunction with the revision of the Participant Welfare Policy (now in the process of being revised by the Board, renamed the "Safe Sport Policy" and aligned with the U.S. Center for SafeSport's policies), we recommend that the USA Gymnastics' Code of Ethical Conduct be revised substantially. consistent with the new Safe Sport Policy, to identify with clarity specific conduct that often constitutes grooming and that should be prohibited by member clubs as well as by USA Gymnastics as to its national team staff. These prohibitions, it should be understood, will protect well-meaning coaches as well as athletes who are the prey of abusers. If specific actions are prohibited, and those prohibitions are enforced, young athletes will be better protected and coaches will not unwittingly put themselves in a position to be suspected of wrongdoing.

Prohibited conduct should include, but not be limited to, the following:

- Any adult non-parent/guardian being alone with any minor athlete under any circumstances⁴⁹
- Any athlete living with a coach or other non-parent authority figure
- Certain stretches that involve close contact between the body of the coach or other adult with the athlete⁵⁰
- Any rubdown or massage by anyone other than a licensed massage therapist, unless there is at least one other person present⁵¹

⁴⁸ Ibid.

⁴⁹ There will be those who believe this is too harsh due to the frequency with which a single coach and a single athlete are traveling to a competition outside the state or even the country. We, and the Board's Policy Review Panel, are convinced that this policy is not only entirely capable of enforcement, but also necessary for the safety of the athletes. There are too many instances of sexual abuse occurring, for example, in a coach's automobile. We understand that in the past, there was a policy decreeing that a male coach traveling internationally with an athlete would be required to be accompanied by a female coach. We do not know whether the policy is still in effect or is enforced.

⁵⁰ It is our understanding that Valeri Liukin, now National Team Coordinator, has banned certain stretches, at least at the National Team Training Center.

⁵¹ Our original recommendation was that no coach under any circumstances be permitted to give a massage or rub-down to an athlete. In discussion with a former Olympian, we determined that in an Olympic or other worldwide competition, where the number of credentialed national staff is limited, there are circumstances in which an athlete cannot wait for or does not have access to someone other than the coach before having, for example, a strained muscle massaged prior to competing. We settled on a "no one-on-one" policy recommendation for that reason.







- Any use of recording equipment in any restroom or locker room
- Any still or video photography except in strictly controlled conditions, including no oneon-one photography (photographer alone with the athlete) and no suggestive poses⁵²
- Any gift-giving to athletes from any adults who are not a parent or guardian
- Any one-on-one usage of social media, including "friending"
- Any one-on-one texting of athletes by coaches or other adults
- Any icing or taping of an athlete in an intimate area of the body by a coach or other non-parent/guardian adult other than in carefully controlled situations⁵³

These should be understood by athletes, their parents, coaches, club owners and all others associated with the sport to be professional boundaries that are not, under any circumstances, to be crossed. Some, like a ban on any gift-giving, may seem too restrictive; but as this is a common activity of predators, it is far better for all concerned if both athletes and those who coach or otherwise interact with them in a club setting understand that any gift-giving is prohibited, and that the athletes and their parents understand why.

Develop a Disciplinary Process for Violations of the Revised Code of Ethical Conduct and Other Member Club Requirements

It is essential that member clubs, their owners, and all adults working as employees, contractors or volunteers in member clubs face strict discipline for failing to comply with the Safe Sport policies adopted by the Board. That discipline should range all the way to termination of membership and, for an individual member, placement on the Permanently Ineligible list.

Ensure That Members Suspended or Deemed Permanently Ineligible Are Banned from All Clubs

Any person whose membership has been suspended or who has been deemed Permanently Ineligible should not be permitted, during the period of suspension or ineligibility, to work in either a paid or volunteer capacity in any member club. Further, such person should not be permitted to be associated with any member club in any way during such period; or to have access to any member club or the athletes in training at the facility.

Since 2011, USA Gymnastics policy has required member clubs to certify that they will not hire, or in any way associate with, a person on the Permanently Ineligible list. ⁵⁴ This language, while clearly intended to prohibit even the presence of banned former members at a club, may allow their access to children by failing clearly to proscribe their presence in any member club at any time. We are informed by USA Gymnastics, and have read independently, of situations in which a person on the Permanently Ineligible list has been permitted to be involved in the financial or administrative management of a member club (though that report apparently preceded this particular policy of USA Gymnastics and may have led to its enactment); or permitted to be present at a member club with access to minor athletes. The policy should clearly prohibit this, and the club's membership status, as well as that of the club owner, should be at risk for failure to comply.

⁵² This proposed provision would require further definition with input from professionals in and outside USA Gymnastics.

⁵³ A training video can be created to demonstrate how a coach can help an athlete tape herself, to avoid having the coach touch her in any intimate area.

⁵⁴ See USA Gymnastics Participant Welfare Policy, Exhibit A.

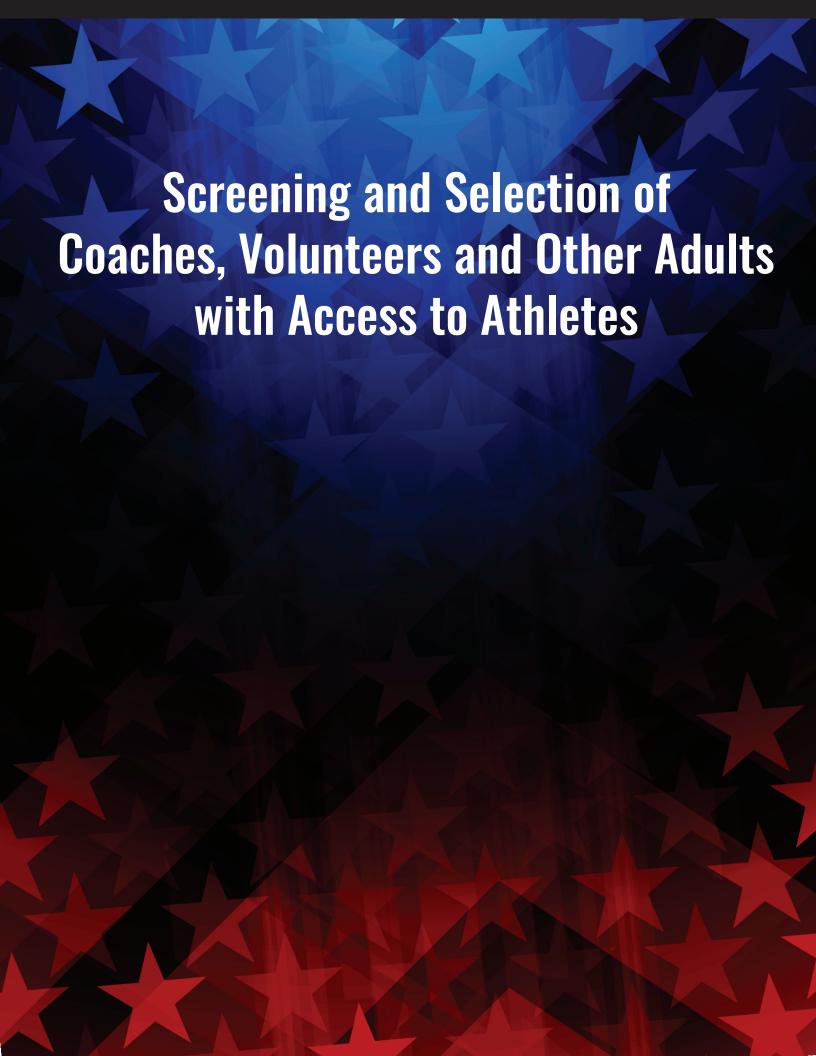






• Develop and Require Training for All Member Clubs on Membership Requirements

Once membership is expanded as recommended, the revised code of conduct and other requirements are finalized, and a disciplinary process for non-compliance is instituted, training should be developed and made mandatory for all member clubs. The owners and other leadership of each club should be required to undergo the training, preferably in an environment that permits a dialogue between trainer and trainee to ensure that the requirements, and the consequences for failing to satisfy them, are clear. The training should include the fact that USA Gymnastics will be conducting random audits each year of clubs around the country to determine their level of compliance.









Screening and Selection of Coaches, Volunteers and Other Adults with Access to Athletes

Findings

 USA Gymnastics Consistently Conducts Criminal Background Checks on Membership Applicants

USA Gymnastics routinely conducts background checks on all applicants for professional and instructor membership over the age of 18. The organization contracts with the National Center for Safety Initiatives (NCSI), a private company, for the purpose of conducting these reviews. NCSI, in turn, represents that it operates consistently with guidelines established by the National Council on Youth Sports (NCYS).

We have examined the NCSI background check process and believe the NCSI review to be appropriate and adequate for the purpose of identifying criminal convictions or their equivalent and inclusion of any applicant in any state or federal database of sex offenders. The following databases are checked by NCSI:

- Two independent national databases
- Sex offender registries of all available states
- Social Security number validation
- Federal terrorist database search

Non-database (county courthouse runner) searches of county criminal records of all jurisdictions of residence in the past seven years are also conducted.

NCSI presents its results to USA Gymnastics in the form of a "Red Light/Green Light" finding. A green light indicates that the individual meets the screening criteria and that there are no indications related to his or her criminal record suggesting that (s)he should not be hired. A red light is an indication that something has been identified in the individual's criminal history that does not meet the screening criteria. A red light finding, if not overturned (see below), will prevent the applicant from being granted the privilege of membership.

Convictions or pending dispositions for the following offenses, or inclusion on a sex offender registry, lead to a red light finding:

- Any felony (crime punishable by confinement of more than one year)
- Any lesser crime involving force or threat of force against a person
- Any lesser crime in which sexual relations is an element, including so-called 'victimless'
 crimes of a sexual nature (including pornography, indecent exposure and lewd behavior)
- Any lesser crime involving controlled substances (excluding paraphernalia or alcohol)
- Any lesser crime involving cruelty to animals
- Any lesser crime involving harm to a minor







In addition, a red light finding is rendered if NCSI identifies any charge for a sex offense or involving harm to a minor that results in a disposition favorable to the applicant other than acquittal, including but not limited to pardons, dismissals after deferred adjudication, and restoration of rights.

According to NCSI, these criteria for a red light/failure to meet criteria finding are consistent with the NCYS guidelines, and are considered by NCYS to be consistent with the principles of the federal PROTECT Act of 2003.

Certain due process rights are built in for the applicant, including the right to appeal a red light finding to a USA Gymnastics review panel, and to file a grievance under the USA Gymnastics Bylaws if the appeal panel upholds the determination. Under the current grievance procedure, as indicated elsewhere in this report, the President of USA Gymnastics has considerable authority to determine the outcome of the grievance.

USA Gymnastics has also developed an "override" system, permitting USA Gymnastics management to override a red light finding and grant membership without the intervention of the appeals panel process. We are told that this override has been used on occasion – for example, with respect to what is seen as a minor drug conviction at some point in the applicant's past.

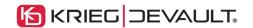
According to NCSI and USA Gymnastics, all members subject to the background check are rescreened after the initial screening at 2-year intervals. In the first year of membership an additional screening is conducted at the one-year mark.

• Member Clubs Often Conduct Background Checks and Call References, Interview Candidates

Many member clubs conduct their own background checks of applicants for coaching positions. However, not all clubs do this; and as indicated elsewhere in this report, some clubs do not even routinely check the Permanently Ineligible list when screening coaching applicants. Almost all clubs sampled in our site visits do call professional references provided by job applicants.

Most clubs conduct interviews of coaching candidates, but most do not use any particular interview template provided by professionals in the human resources field. Some observe the prospective coach in a training environment in their gym before (s)he is officially hired, to obtain a sense of how (s)he interacts with the athletes and whether (s)he has the requisite skills.

USA Gymnastics has provided basic hiring process templates on the "Clubs Care" portion of its web site to assist member clubs in conducting appropriate screening processes; but most clubs, based on our sampling, are either unaware of those or simply develop their own processes without reliance on the templates. The templates themselves are helpful, but there are additional tools for interviewing and hiring that are specific to screening for potential abusers.







No Organized Method Exists for a Club to Learn of Prior Dismissals

Though the gymnastics community is a fairly collegial world in the sense that club owners feel comfortable contacting each other for references, there are many reasons why a club might not learn of a person's potential for abuse.

The vast majority of abusers of children do not have criminal convictions and cannot be identified through a criminal history check. Even those who are engaging in sexual acts with young girls, and may have done so for years, are often not discovered because their victims are too intimidated and/or embarrassed to report the abuse. In the gymnastics environment, given the factors described elsewhere in this report, it is even less likely that an athlete will report abuse. Further, the athletes not being abused, and the parents of athletes, are likely to be supportive of the predator. Part of the predator's access and detection-avoidance methodology has to do with ingratiating himself/herself to the parents of the athletes.

Before getting to the point of sexually abusing a child, a perpetrator may "groom" the child through activities intended to gain her trust, and de-sensitize her to personal contact. These grooming activities can include encouraging the athlete to keep secrets; lap-sitting; tickling; gift-giving; and other activities we have elsewhere described as boundary violations and red flag actions that should be prohibited.

Many clubs have dismissed coaches for this kind of behavior, though there is nothing specific in their rules that prohibits it. A coach may be fired for bringing athletes into his office alone; tickling; and other actions that the owner deems inappropriate. Often, the club management describes the overall behavior of the coach as "creepy"; the club owner cannot clearly state why, but the actions of the coach give the owner a bad feeling. In these types of cases, the coach may simply be asked to leave.

Here the difficulty arises. Some coaches will threaten legal action for defamation if the club owner reports the activity to anyone else; so when a prospective employer calls for a reference, the former employer may be hesitant to be completely honest. In other cases, the owner simply cannot articulate exactly what concerned him/her when (s)he requested the coach to leave.

Finally, there is no database tracking the movement of coaches from one gym to another, other than that member clubs are required to list their member coaches with USA Gymnastics; and member coaches are required to report the club with which they are affiliated each year when they renew their membership. Thus, there is no easy way for a club owner to conduct a search relating to a job applicant's past employment.

• There Are No Official Qualifications to Become a Coach

Any person may decree himself or herself to be a gymnastics coach. While some clubs include as part of the hiring process a "trial run" in which the club owner or other coaches may observe the prospective employee actually coaching young gymnasts, others do not. And just knowing how to execute a maneuver, or how to spot a gymnast, is not sufficient to protect children from inadvertent abuse by untrained coaches. Dr. Lyle Micheli, a pediatric orthopaedist at Harvard Medical School and former President of the American College of Sports Medicine, was described by Joan Ryan in "Little Girls in Pretty Boxes" as concerned about this issue. According to Ryan, Micheli advocated for certification of







coaches, including a requirement that they be educated in basic child psychology and physiology,⁵⁵ suggesting that without a basic education in child psychology and physiology, a coach could inadvertently abuse children emotionally or physically.

⁵⁵ Ryan, "Little Girls in Pretty Boxes," *supra* note 6, Chapter 7. Dr. Micheli is currently the Director of Sports Medicine at Boston Children's Hospital and Clinical Professor of Orthopaedic Surgery at Harvard Medical School.







Screening and Selection of Coaches, Volunteers and Other Adults with Access to Athletes

Recommendations

• Expand the Universe of Those Subjected to Background Checks

As recommended under "Member Requirements and Enforcement," above, a significant number of those involved in competitive gymnastics, not to mention those who are involved in recreational gymnastics, are not currently subject to the jurisdiction of USA Gymnastics. Thus, unless a member club chooses to conduct background checks on everyone working in the club with access to minors, that will not happen.

We have previously recommended, in that same section of this report, that all adults working in a member club with access to minors, including volunteers, should be required to be members of USA Gymnastics. This would result, in part, in criminal background checks for each such person. As we discussed in the prior section, affordability should not be a significant problem, particularly if the individuals are required to pay enough to cover the cost of background checks; and the cost is certainly worth it in the interest of protecting the valuable lives in the care of the clubs.

We understand that there are other gymnastics training sites around the country that do not participate in USA Gymnastics sanctioned competitions, and therefore are not members of USA Gymnastics; nor are their employees, including coaches, members of USA Gymnastics. We would hope that those who manage such facilities would adopt strict child protection policies such as those being recommended here; but this report is focused on what USA Gymnastics can and should do to protect young athletes. We understand that USA Gymnastics has no jurisdiction over these non-member facilities.

Consider Requiring Certification for Coaches Prior to Hiring

As indicated in the Findings of this section, there are no pre-requisites for becoming a gymnastics coach, either within or outside the USA Gymnastics membership program. The only training requirements placed on coaches occur after they become members: they are required to take one online course once every 4 years that includes information about Safe Sport issues.

As recommended years ago by Dr. Lyle Micheli, those coaching gymnastics should have at least a basic education in child psychology and physiology. USA Gymnastics is encouraged to consider requiring certification, including but not limited to such education, for all coaches over whom it has jurisdiction. Rather than grandfathering existing coaches, requiring training within a one- or two-year period of the enactment of such a rule might be appropriate.







• Provide Member Clubs With a Detailed Hiring Toolkit

Best practices toolkits related to screening potential employees and volunteers for risk of abusive behavior are readily available throughout the child-serving organizations community. It is recommended that a detailed screening and selection "best practices" toolkit should be provided to all member clubs. The toolkit should include, but not be limited to:

- Instruments designed to assess risk of abuse
- Application permitting identification of inconsistencies in interview responses
- Guidelines for questions to ask in conducting a reference check
- Behaviorally-based interview questions (e.g., "Have you ever been confronted with
 _____ situation, and what did you do?")
- Best practices for the proper conduct of a social media search on a candidate

While USA Gymnastics provides templates and other assistance to clubs regarding hiring, this toolkit could be improved; and USA Gymnastics should consider requiring the clubs to use the materials prescribed.

Provide Club Owners and Hiring Personnel With Training on How to Use the Screening and Selection Toolkit

To fully use the information collected in the screening and selection process, club owners and hiring personnel who make selection decisions must be properly trained. They should know how to use behavioral interviewing methods; characteristics of child molesters; how to recognize warning signs in completed applications, in interviews, from criminal background and sex offender registry checks and in references. They must also know whether the collected information disqualifies the applicant or requires continued inquiry.

Review and Reconsider Method of Overriding Red Light Finding

As suggested above, the overall criminal background check process is satisfactory and adequate for identifying at least the minority of predators who have been apprehended in the past by governmental authorities. However, it is recommended that USA Gymnastics review the practice that allows someone in management at USA Gymnastics to make the decision to override a red light finding such that a "green light" (suggesting that no issues arose in the background check) is published to the outside world. While we have no evidence that this override practice has led to harmful results in the past, it poses a risk of abuse and, if not clearly constrained and/or limited to certain clearly-understood situations, could enable a predator to slip through the criminal background check process.

While exceptions may in fact be warranted in some cases, it is suggested that USA Gymnastics consider a more formalized practice such as a small committee that includes, at minimum, one Board member so that it is not limited to USA Gymnastics staff; and that the committee have meetings to make such determinations and create a record of each such decision.







Create Database of Persons Dismissed From Member Clubs

One of the greatest risks to young gymnasts is posed by the ease with which coaches can move from one club to another, even if dismissed based on suspicions of abuse.

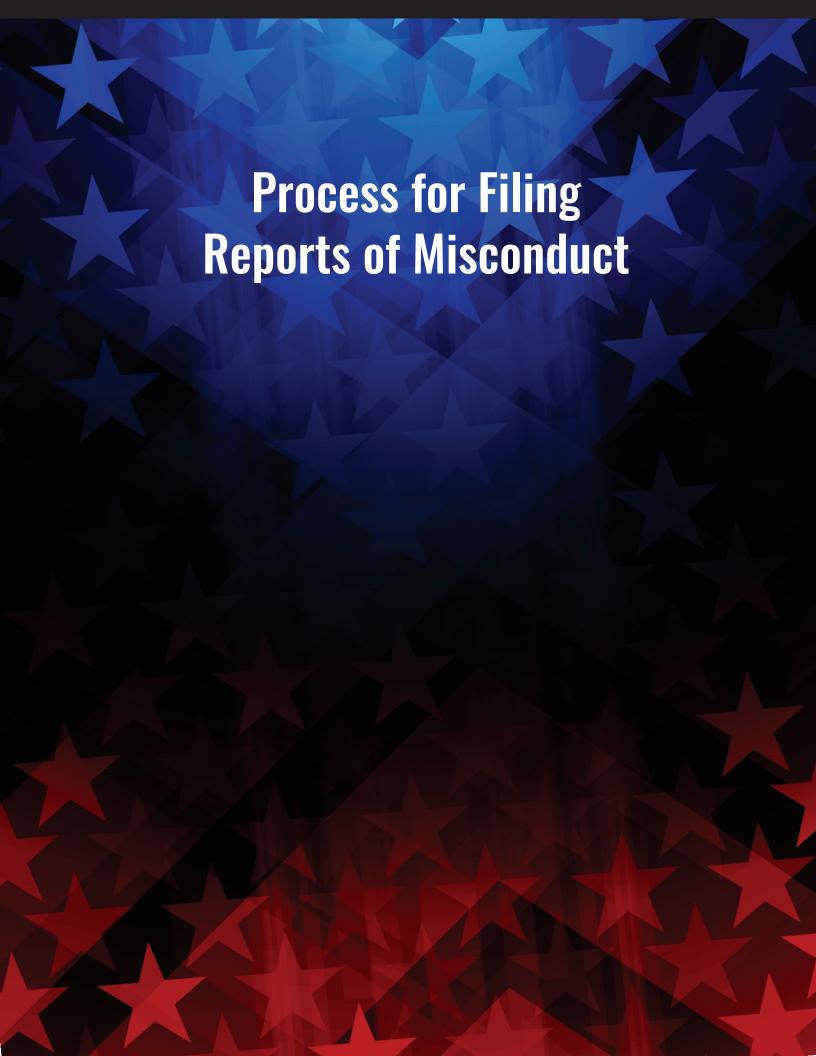
Other recommendations in this report will address requiring reporting by all members any suspicion of actual abuse. A requirement that all persons under the jurisdiction of NGBs report suspected child abuse, both to law enforcement authorities and to USOC-related authorities, including the U.S. Center for SafeSport, is included in the federal legislation making its way through the U.S. Congress. Further, however, the legislation includes language mandating NGBs such as USA Gymnastics to establish a mechanism for sharing reports of suspected sexual misconduct by an adult under the NGB's jurisdiction; and it includes a provision intended to shield NGBs and member clubs from liability for sharing that information.

In the case of dismissals for grooming activity that stops short of actual sexual misconduct, the legislation does not, as of the time of this report, specifically provide such protection. However, if USA Gymnastics were to establish a very clear code of conduct, and a person were dismissed based on violation of that code of conduct, that factual information may be sharable with member clubs and protected by certain "good Samaritan" statutes at the state level. It is recommended that USA Gymnastics create a secure database accessible by member clubs and require them to report information about both suspected sexual abuse and dismissals or requested resignations based on violations of the code of conduct. It is further recommended that USA Gymnastics consult with legal counsel to determine the best way to protect itself and its members from civil liability in the operation of this database, keeping in mind that the protection of young athletes from abuse is paramount.

It is also recommended that a method be developed by which the movement of coaches from club to club is tracked and made available on the USA Gymnastics web site, even if the coach is not a member of USA Gymnastics. This could be accomplished by requiring member clubs to report to USA Gymnastics, at least annually, every individual working as a coach in the club, with certain identifying information such as date of birth, whether or not that person is also a member. ⁵⁶ USA Gymnastics should seek a technology vendor to assist it in determining how to use that information to create a database of coaches, including the history of their employment. Member clubs could be required to access this database when conducting due diligence and reference checks on new applicants.

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⁵⁶ As we have recommended in this report, we believe it critical to enforcement that all coaches in member clubs, whether coaching member athletes or not, should also be required to be members of USA Gymnastics.









Process for Filing Reports of Misconduct

<u>Findings</u>

• Only Two Formal Mechanisms Exist for Processing Allegations of Misconduct

The USA Gymnastics Bylaws provide for two official methods of reviewing allegations of misconduct. Article 9 provides for a streamlined method of banning a member if that person has been convicted of a crime involving child abuse, or has been declared a sex offender or included in a sex offender registry.

If any of these circumstances exists, the President may notify the member that USA Gymnastics intends to terminate the membership, and the member may request a hearing. This is intended to satisfy the USOC's requirement of notice and hearing; but the hearing, if requested, is limited to ascertaining whether the member falls into one of these categories. Thus, action can be taken quickly upon conviction.

However, the only formal method of entertaining any other allegation of abuse, i.e., short of a criminal conviction or its equivalent, is the traditional grievance process found in Article 10 of the Bylaws. This process is used for all grievances, and traditionally required a written "complaint" signed by the "aggrieved party" or the parent of a minor aggrieved party. While Article 10 has been amended to permit USA Gymnastics to serve as the aggrieved party, it is still broadly understood in the field that the victim must initiate the complaint.

This process alone, and the perception that a written, signed complaint from the victim is still required, is sufficient to suppress many reports.

Current Protocol for Handling Allegations Insufficient

There is apparently no written protocol for precisely how to handle allegations of abuse. Reports phoned in are to be routed to one of two people designated to receive such reports; one of those designated by current practice is the President of USA Gymnastics, and the other is a senior staff member with several additional responsibilities.

There are no apparent protocols regarding the preferred length of an investigation prior to a hearing, or how the investigation will be conducted, other than that the President may designate a person to conduct an investigation. At the same time, if the allegation is one of child abuse as defined by criminal statute, USA Gymnastics' policies are being revised to provide that, unless it is aware that the matter has already been reported, USA Gymnastics will report to law enforcement. USA Gymnastics has been criticized publicly in recent months, however, for having reportedly spent approximately five weeks conducting its own internal investigation before making a report of alleged sexual abuse to law enforcement authorities in 2015.⁵⁷ While not an uncommon error among insufficiently-informed organizations, including schools and others that are required to make such reports to law enforcement

⁵⁷ "USA Gymnastics Delayed Reporting Larry Nassar for 5 Weeks," *The Indianapolis Star*, February 16, 2017, http://www.indystar.com/story/news/2017/02/16/larry-nassar-usa-gymnastics-fbi-child-sexual-abuse/98002452/.







when child abuse is suspected, this is not a permissible delay. Reports are to be made immediately upon receipt of information that leads to a suspicion of child abuse; and a report from any purported victim that abuse has occurred is certainly sufficient to establish that suspicion—though evidence other than a report by the victim can also be sufficient to meet this standard.

Further, at least in prior years, it appears to have been believed even by people in senior positions at USA Gymnastics that reports were not actionable unless the victim was a member of USA Gymnastics. If this was in fact the rule at the time, we understand that this particular situation has since been corrected.

One of the difficulties in encouraging reporting is the level of confusion on the part of those in the field, and even some on the USA Gymnastics staff, about exactly what occurs when a person makes a report of suspected abuse to USA Gymnastics. The uncertainty can further depress reporting. For example: though the fact that USA Gymnastics itself may file a complaint under Article 10 theoretically makes it possible for a person to make an oral report, or even an anonymous report, and see it blossom into an investigation and a proceeding against the perpetrator, the belief in the field – and apparently even on the part of some USA Gymnastics staff – is that the victim or his/her parent must file a written complaint in order to be heard.

Finally, as indicated in a prior section of this report, the President possesses significant discretion in determining the outcome of a filed complaint. This creates the risk of favoritism or overlooking violations in order to protect the reputation of the organization; or certainly the public perception that if a complaint is dismissed by the President unilaterally or a finding is made in favor of the respondent, it may be for one of those reasons.

• Apparent Lack of Reviewer Expertise

Those who are assigned to receive and review reports of abuse or suspected abuse within USA Gymnastics have received no formal training in the areas of child abuse, child protection or the investigation of suspected abuse; nor have they received formal training in the dynamics of child victimization and the emotional impact of abuse on its victims.

Insufficient Accountability

As indicated elsewhere in this report, there appears to be no oversight of the investigative process within the organization. Those responsible for reviewing and determining the outcome of allegations of abuse are not held accountable by the Board.

Further, there is no apparent auditing of the process to determine whether it is being conducted appropriately and with dispatch; whether reports are being made to law enforcement when the facts would suggest that they should be; and whether sanctions imposed on offenders are being upheld. For example, while we are not aware of specific situations in which a temporarily suspended coach was permitted to continue coaching during his suspension, there appears to be no mechanism for ensuring this does not happen. And we are aware of allegations that persons placed on the Permanently Ineligible list were permitted to continue some involvement in clubs even though the clubs are to have no association with such permanently ineligible members.







Cumbersome Process for Victims of Abuse

The process outlined in Article 10 of the Bylaws is designed for the traditional grievance process. (Articles 9 and 10 of the USA Gymnastics Bylaws are attached to this report and marked "Exhibit C".)⁵⁸

To USA Gymnastics' credit, it segregates out complaints of actual sexual abuse, to which it refers in Article 9 of the Bylaws as "Special Categories of Misconduct", for prompt action. In the language of Section 9.2:

Special Categories of Misconduct.

- (a) If the Corporation becomes aware that any individual member:
 - (i) Is listed on any State or Federal sexual offender list or registry;
 - (ii) Has been declared a sex offender in any applicable State or Federal jurisdiction; or
 - (iii) Has been convicted of or has entered a plea of guilty or no contest to a criminal charge or indictment issued by an applicable City, County, State or Federal jurisdiction, and such charge or indictment directly or indirectly involved or related to child abuse or conduct that is a violation of any law or regulation that is specifically designed to protect minors;

("Special Categories of Misconduct"), the President may, without conducting any additional investigation, rely upon such fact, finding or determination and may promptly notify the member that:

- (1) The Corporation intends to terminate the individual's membership or impose any other discipline authorized in Article 10 by a specified date; and
- (2) The individual may request a hearing prior to the termination or other discipline becoming effective.

Article 10, as recently amended, further segregates "misconduct" from other types of complaints which may be filed with USA Gymnastics. "Misconduct" is defined in Section 9.1 as

- Any violation of the Bylaws, or the rules, regulations or policies of USA Gymnastics, or causing another person to violate them
- "[C]onduct which is detrimental to the organization or which is inconsistent with the best interests of the sport of gymnastics or of the athletes the Corporation serves"; or
- Sexual misconduct.

Section 9.1 describes the types of sexual misconduct as:

- A "Special Category of Misconduct" (see above)
- "Any other sexual misconduct described in the Corporation's policies or the [U.S. Center for SafeSport] Code"

⁵⁸ The Bylaws are found in full on the USA Gymnastics web site at https://www.usagym.org/PDFs/About%20USA%20Gymnastics/Governance/usag-bylaws.pdf.







The first bullet point in the definition of "misconduct" (see above) would seem to include, should they be adopted, the potential grooming activities we recommend be prohibited, such as being alone with an athlete, texting to an individual athlete, gift-giving and the like. However, a complaint based on "misconduct", unless it is referred to the U.S. Center for SafeSport, is handled under the terms of Article 10.

This raises the question of what will be referred to the Center, what will not be referred to the Center, and what USA Gymnastics will do if the Center declines to act on a referral. It will be assumed for purposes of this report, based on the fact that there are 47 separate Olympic sports and that the volume of the Center's work is likely to be high, that any violation short of actual sexual misconduct will not be resolved by the Center.

The USA Gymnastics process for filing a complaint, Section 10.2, reads in pertinent part:

Filing a Complaint. Any current member, current or former athlete member, or the Corporation (the "Complainant") who believes himself/herself/itself to be aggrieved by any action of the Corporation or by one of its members, may file a Complaint with the Corporation. If the Complainant is a minor, the Complaint may be initiated by such minor's parent or legal guardian. To be considered for resolution through these procedures, the Complaint must:

- (a) Be submitted in writing to the President at the Corporation's principal place of business;
- (b) Be signed by the Complainant; and
- (c) Include a concise statement of the nature of the Complaint, the individual and/or organization believed to be responsible for the acts or omissions described in the Complaint and the relief requested.

After this, the "complaint" is processed in the manner outlined in Article 10 (see Exhibit C).

This process is unduly burdensome for a person who feels victimized in an intimate manner. Few athletes, or their parents, are likely to file a written, signed report of behavior that embarrasses the athletes, that they not certain constitutes an offense, and/or that they are uncertain will be taken seriously by the reviewers. As has become apparent through the years, even athletes who have clearly been violated by predators are uncomfortable making reports directly.

Further, the language of Article 10 tends to be understood in the gymnastics community to require that a complaint be written and signed by the victim or her parent, even though the language provides for a complaint generated by USA Gymnastics, assuming USA Gymnastics "believes ... itself to be aggrieved by an action of... one of its members...." This language is sufficiently vague that an athlete, or another member such as another coach or a club member who wishes to report suspicious activity, is unlikely to assume USA Gymnastics will take up the matter he or she wishes to report.

The process calls for a copy of the complaint to be provided to the respondent. If the complaint is filed by USA Gymnastics, that may not be problematic; but a young athlete and her parents will be reluctant to file a formal report knowing that it will be shared, verbatim, with the perpetrator – particularly if that person is her coach.







Due Process Possibly More Extensive Than Necessary

If Article 10 is to be used as the process for responding to reports of abusive or grooming behavior, we suggest that the extent of due process required is greater than required by law. While a "Due Process Checklist" distributed by the USOC to NGBs, described only as a series of recommendations, includes a right to confront and cross-examine witnesses adverse to a respondent in a proceeding, case law suggests that an entity such as an NGB, which is not a "government actor" but rather a private entity, may not be required to provide that level of Constitutional due process. The case law suggests that an NGB need not permit a person accused of abuse against a minor to either cross-examine the minor personally or have his attorney do so.

• Burden of Proof Not Clear

Article 10 does not indicate the burden of proof required to prevail in a hearing on a complaint. However, there are guidelines, including the USOC Due Process Guidelines, that suggest the burden of proof should be a preponderance of the evidence; and that appears to be the standard that is used. This level of burden, essentially meaning "more likely than not", is appropriate for this type of proceeding.

No Formal Training for Hearing Panel Members

The process for resolution of complaints under Article 10 requires determination of the resolution by a 3-person hearing panel unless the respondent, in the case of a misconduct complaint, requests resolution by the President.

This report has already indicated problematic aspects to having the chief executive officer of the organization resolving such matters unilaterally. A secondary issue is that neither the President of the organization, nor any of the panel members, have apparently received any training in either the proper conduct of an administrative hearing or the dynamics of child abuse.

Balancing of Rights of Victim and Accused

Throughout this nation's history, the rights of the accused have always been respected, and that must continue. However, there has been concern expressed by critics of USA Gymnastics that there may be an unnecessary and disproportionate concern that reports of abuse might be filed by representatives of one club in order to disadvantage a very capable coach at another club. This may or may not have led to undue caution on the part of USA Gymnastics in reviewing reports of abuse. We note that the former Board member who testified before the U.S. Senate Judiciary Committee stated that Board discussions regarding reports of abuse, to the extent they occurred during her tenure, centered around the reputation of the accused rather than the report of the alleged victim.⁵⁹

USA Gymnastics is right to ensure that the rights of an accused, to the extent they are protected in this administrative environment (see due process issues, above), are respected. However, it is important to remember that the safety and protection of young athletes is paramount, and to demonstrate that in any process developed to respond to reports of conduct violations in relation to potential abuse.

⁵⁹ Testimony of Jessica Howard before the Committee on the Judiciary, United States Senate, March 28, 2017.







• Time Bar in All Cases Other than Criminal Conviction, Sexual Misconduct

There is no time bar (the equivalent of an internal statute of limitations) involved in Article 9 proceedings. These are the fast-tracked proceedings relating to those who have been convicted of a crime of child abuse or related to the protection of minors; inclusion on a sex offender registry; and the like.

However, Article 10 includes a time bar for most complaints. Section 10.2 reads as follows:

Time Bar. Unless the Complaint is filed by the Corporation or involves allegations which are of the type described in one of the Special Categories of Misconduct, a Complaint must be filed within one (1) year of the occurrence of the alleged incident, violation, grievance, denial or threat to deny. In the event that the Complainant was a minor at the time of the occurrence of the alleged incident, violation, grievance, denial or threat to deny, the Complaint must be filed within one (1) year following the minor's eighteenth (18th) birthday.

As indicated immediately above, this means that there is no time bar on Article 9 proceedings, which deal with a finding of permanent ineligibility for individuals convicted of certain criminal offenses, declared a sex offender, or included on a sex offender registry. And, while the language is not completely clear, it appears that the Bylaws also do not place a time bar on an allegation of sexual abuse, even if it has not yet resulted in a conviction.

However, there is a strict time bar for any other matter handled pursuant to Article 10, including the types of code of conduct violations that may constitute predator grooming, unless the complaint is filed by USA Gymnastics itself. Therefore, if an athlete, her parent, or a member of USA Gymnastics wishes to file a complaint relating to a code of conduct violation that may constitute grooming activity, the complaint must be filed within one year of the alleged incident; or, if the complainant is a minor, then within one year following her 18th birthday. This limitation can endanger current and future athletes still interacting with that adult.

Experts in the field of child protection indicate that it is not uncommon for victims of abusive behavior to delay reporting, sometimes for years, due to various factors. The time bar is thus another obstacle to reporting in a way that will be responded to by USA Gymnastics. And recent reports of alleged abuse of young gymnasts from more than 20 years ago bear that out.







Process for Filing Reports of Misconduct

Recommendations

• Err on the Side of Protecting the Athlete in All Situations

Part of the cultural change we are recommending at USA Gymnastics must involve a commitment to always err on the side of protecting the young athletes in its charge. USA Gymnastics should send a clear message that its first priority is the safety of its athletes. There are ways to build in protections for the wrongly accused, and we believe that is appropriate. For example, there are criminal penalties at the state and federal levels for knowingly making a false report of a crime. Similarly, the U.S. Center for SafeSport has included language in its policies providing for punishment of a person who knowingly makes a false report of a Safe Sport violation.

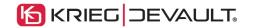
We encourage USA Gymnastics to adopt similar policies for punishment in the case of knowingly false reports, but to send the message loudly and clearly that (1) if it receives a report that, assuming the truth of the allegations, would constitute child physical or sexual abuse, it will immediately report the allegations to law enforcement; and (2) any report from any minor of a code violation on the part of an adult member will be taken seriously and treated as valid by USA Gymnastics unless and until an investigation disproves the allegations.

One of the ways that USA Gymnastics can reassure the gymnastics community and the concerned public of its commitment is to lend a greater sense of urgency to the entire process. Reports should be investigated and resolved as speedily as possible; reports to the U.S. Center for SafeSport and to law enforcement must be made immediately upon receipt of an allegation; and interim measures should be included, much like those adopted by the Center for temporary suspension in cases in which it is deemed necessary to protect athletes pending the outcome of investigations. USA Gymnastics indicates that it currently has an informal system in place for temporary suspensions pending a finding under Article 9 of the Bylaws of a conviction or other Special Category of Misconduct, even though the USOC has continued to require notice and hearing even for such immediate suspension, based on the Stevens Act. However, the process recommended here is broader and would encompass interim measures when violations are alleged that do not necessarily rise to the level of criminal child abuse but the alleged actions of the perpetrator, if true, suggest that athletes with whom he has contact may be endangered.

Create a Clear Protocol for Response to Allegations Made Outside the Formal Grievance Process

A clear protocol should be adopted, and broadly shared throughout the gymnastics community, describing various methods of making reports; welcoming reports from any person about suspected abuse; requiring reporting to law enforcement immediately of any allegations that, if true, would constitute child abuse; and outlining the process that will be followed when a report is received.

The protocol should include a description of the actions that will be deemed violative of the USA Gymnastics Code of Ethical Conduct, as revised per our recommendations.







The protocol should make clear what a reporting party can expect from USA Gymnastics, including the possibility that a report may be kept confidential. It should establish a mechanism for tracking all reports, their disposition and the time from report to conclusion (and all steps between), and require in all but the most difficult reviews a specific and ambitious time period from report to conclusion. It should require training for all persons who may participate in responding to reports of abusive conduct or other conduct violative of Safe Sport requirements. It should make clear when reports will be forwarded to the U.S. Center for SafeSport, and what will occur if the Center declines the matter or fails to act within a given time period.

Further, the protocol should make clear the range of penalties that may be imposed for violations.

• Remove President from Controlling Role in Determining Disposition of Allegations

As indicated repeatedly in this report, we consider it inappropriate for the President of the organization to be responsible for the receipt of reports or the disposition of allegations of abuse.

The potential appearance of dismissing a complaint in order to avoid public criticism of USA Gymnastics is only one of the risks leading to this recommendation. In order to earn the trust of the athletes and others, it will be important to have a methodology for review and disposition of allegations of abuse that is as independent as possible from the hierarchy of USA Gymnastics' administration and board. It must be clear that no decision will be made based on acquaintance with either the alleged perpetrator (e.g., "he's too nice a guy to have done that") or the alleged victim (e.g., "she's a troublemaker"). The decisions must be made based only on the evidence, and the evidence must be followed wherever it leads.

Provide for Board Oversight of the Process

As indicated in prior recommendations, there should be rigorous Board oversight of the resolution of reports. At each Board meeting, a high-level discussion should occur relating to the number of new reports each month; the time to disposition; and the resolution of the complaints, including discipline. A monthly report should be sent to Board members providing an update on, at a minimum, these same issues.

To facilitate this oversight, it is recommended that a secure, electronic internal tracking system of disciplinary complaints and/or reports of violations of the Code of Ethical Conduct be created. This system should include, at a minimum, the date received, basic allegations, date resolved and action taken on each report. The Board, or a committee of the board – perhaps the Ethics, Grievance and Safe Sport committee or another committee created specific to Safe Sport issues – should review the data routinely and discuss it with the Director of Safe Sport.

Each matter should be assigned a unique case number to verify that the report has been made and the date it was made. This would protect club owners who will be required to make reports of violations to USA Gymnastics, allowing them to prove that they did so in a timely manner. In addition, it could permit reporters to contact USA Gymnastics to learn of case status and obtain a prompt and accurate response, though they would not have access to the tracking system itself.

This committee of the Board should work closely with the Director of Safe Sport and require regular, more in-depth reports from that person.







The Director of Safe Sport, as well as the person designated to investigate and resolve reports of abuse and of violations of the Code of Ethical Conduct should have direct access to the Board.

Relax Due Process Requirements in Cases of Alleged Grooming or Abuse of a Minor

As indicated in the Findings portion of this section, case law suggests that the Constitutional due process requirement of the right to confront and cross-examine one's accuser may not be required in this setting, involving non-governmental actors such as NGBs.

Further, the "Supplementary Rules for U.S. Olympic and Paralympic SafeSport Arbitrations" (Rules) published as an appendix to the SafeSport Code for the Olympic and Paralympic Movement suggests a more victim-friendly approach to questioning of an alleged victim in the course of a U.S. Center for SafeSport (Center) arbitration proceeding. The procedure outlined in the Rules indicates that only the arbitrator may question either party, unless one or both of the parties elect to submit to cross-examination by the other. However, each party may submit proposed questions and lines of questioning to the arbitrator for consideration in his/her questioning of the other party. ⁶¹

Thus, we recommend that USA Gymnastics conduct a legal analysis on this question and, to the extent possible, protect the alleged victim of abuse from cross-examination by the person accused or his/her attorney. We would suggest that the methodology being employed by the Center would be more victim-friendly and would encourage reporting by victims of abuse or related actions, while still providing for an objective and fair review of testimony.

We are aware that the Center will exercise exclusive jurisdiction over what it defines as "sexual misconduct", as well as "prohibited conduct under the [SafeSport Code] that is reasonably related to the underlying allegation of sexual misconduct." NGBs will not be permitted to conduct their own investigations into allegations of sexual misconduct; but we expect that there will be a vast universe of allegations that the Center will, in its discretion, decline to hear, and the NGBs will be expected to have a clear procedure in place to provide hearings under the terms of the Stevens Act with respect to those.

Clarify in Bylaws the Use of Preponderance of the Evidence Standard

Pursuant to current practice and existing guidance from the USOC, as well as standard practice in similar types of administrative matters, the Bylaws should be amended simply to clarify that the preponderance of the evidence standard will be used in all disciplinary reviews based on any allegation of child abuse or a violation of the Code of Ethical Conduct. Membership in an NGB should be recognized by members and aspiring members as a privilege, and not a right, and treated as such.

• Ensure That All Persons Involved in Response to Reports Are Properly Trained

Training should be provided for all persons who may:

- Receive reports
- o Investigate reports
- Adjudicate reports

⁶⁰ SafeSport Code for the Olympic and Paralympic Movement, supra note 16.

⁶¹ *Id.*, Appendix B, Supplementary *Rules* for U.S. Olympic and Paralympic SafeSport Arbitrations, R.27.d.

⁶² Id., Section IV.A.







The training should encompass:

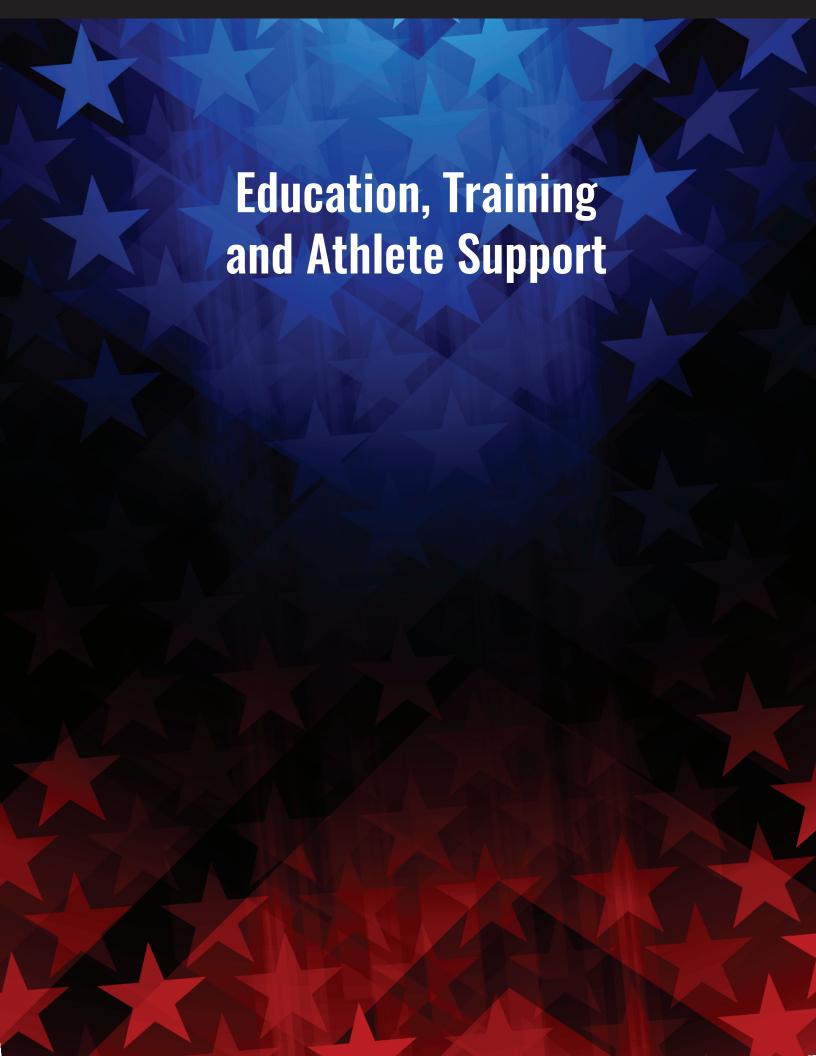
- Child abuse dynamics
- Child emotional and physiological development
- For hearing officers, proper hearing procedures

In order to ensure that those conducting hearings are well versed in proper procedures and otherwise appropriately trained to understand the dynamics of the types of matters they are reviewing, it is suggested that USA Gymnastics consider developing a well-trained panel of hearing officers, who would serve in much the same capacity as an administrative law judge, to hear cases involving alleged child abuse and violations of the Code of Ethical Conduct. Cases would be assigned to these individuals by rotation rather than the current method of asking the Ethics, Grievance and Safe Sport Committee to identify and appoint 3-person panels of often untrained individuals to review grievances. The panel might be made up exclusively of attorneys, but that would not be essential as long as the hearing officers were well-trained and there were careful restrictions intended to ensure the avoidance of conflict.

Remove or Extend Time Bar for Allegations Relating to Abuse and Other Violations of the Code of Ethical Conduct

With regard to these specific types of matters, there should either be no time bar at all, or a greatly expanded opportunity for reporting. The pending Federal Legislation, for example, calls for a statute of limitations in both civil and criminal actions of 10 years after the victim "reasonably discovers the injury or violation that gives rise to the cause of action" for reports of child abuse. In the alternative, if the victim is under 18 at the time of the abuse, the statute of limitations proposed by the Federal Legislation requires a report within 10 years of majority.

Many states have extended or eliminated their statutes of limitation for the reporting of child abuse. This has occurred for the obvious reason that it is very difficult for a young person to report abuse, and very often the abuse will not be reported for many years after it occurred; but the abuser may still be coaching in the system and posing a tremendous risk to current young athletes.









Education, Training and Athlete Support

Findings

 USA Gymnastics Requires All Professional Members to Complete the Safety Certification Course

As part of the USA Gymnastics professional membership certification, members are required to complete two courses: Fundamentals of Gymnastics Instruction (U100) and Safety and Risk Management (U101 - also referred to as the Safety Certification course).

Fundamentals of Gymnastics Instruction (U100) is required for all members upon initial registration. The course provides members with an overview of five key areas: the role of a coach or instructor, physical safety, class and practice management, athlete development, and teaching gymnastics skills. This is the only required coaching education curriculum for both professional and instructor members of USA Gymnastics; and there is no requirement that it be repeated.

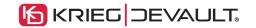
Beginning in 1998, USA Gymnastics began requiring all professional members (but not instructor members) to complete a Safety/Risk Management Course every four years. In 2013, the Safety and Risk Management (U101) course was updated to include an expanded chapter on sexual misconduct prevention: Chapter 6, Preventing Child Abuse in Gymnastics. The entire Safety Certification course is offered through in-person sessions during select times or events (such as a Regional or National Congress) and on line. The course – both the in-person training and the on line version – takes approximately four to five hours to complete. At course completion, all members must pass a 25-question final exam with a score of 75% or better to receive credit for the course.

The following 14 chapters are included in the four to five-hour Safety Certification Course: Risk Management; A Model of Risk Management; Facilities; Gymnastics Apparatus and Equipment; Supervision and Instruction; Preventing Child Abuse in Gymnastics; Miscellaneous Risk Management Issues; Preparation for Gymnastics; Sports Medicine; Other Medical Concerns; Spotting and Acrobatic Devices; Training Pits; Rebounding Devices; and Responsibilities of the Gymnast.

• The Safety Certification Course Includes One Chapter on Child Abuse Prevention - Chapter 6: "Preventing Child Abuse in Gymnastics"

The only chapter in the Safety Certification course focusing on the prevention of child abuse includes the following topics:

- Zero tolerance
- The coach-athlete relationship
- Physical abuse
- Sexual abuse and misconduct
- Prevention
 - Predators: Situational offenders and preferential offenders;
 - Grooming







Minimizing high-risk opportunities (one-on-one situations; overnight travel; local travel; locker rooms, lavatories or other unmonitored areas within the facility; closed-door, unobservable meetings; unsupervised, out-of-program contact between a coach and athlete, usually at an off-site residence or in a vehicle; social events, especially those involving alcohol; an athlete group with a range of ages and development stages; and employing persons who may be predators).

Intervention

- Signs to look for
- How to intervene
- How to respond
- Barriers to Reporting

In addition, this chapter emphasizes the need for clubs to have a Participant Welfare Policy that, at a minimum, includes a description of unacceptable conduct, standards of behavior that promote child and participant welfare, and a process for responding to concerns or reports of conduct that violates the established policy.

The course includes valuable information that the professional members interviewed at the member clubs seemed to understand. For example, most clubs visited were distinctly aware of the risks associated with one-on-one interactions. In fact, many stated that they have a policy against any one-on-one interactions inside and outside of the gym. However, despite recognizing this risk, some of the same gyms still allow one-on-one travel to occur between a coach and an athlete when deemed necessary. Some also allow contact outside of scheduled programming including babysitting and private lessons where one-on-one interactions may occur. Allowing member clubs to decide which one-on-one interactions are permissible and which are not leads to inconsistency and high-risk situations.

Another discrepancy related to one-on-one interactions occurs with regard to electronic communications between adults and athletes. As a result, coaches are not allowed to communicate directly with athletes through electronic means. Instead, all communication is directed through member services or the club owner. Parents do not have the coaches' contact information and coaches do not have the parents' contact information. However, several clubs still allow athletes to communicate electronically with their coaches. Club owners and coaches explained that this is the easiest way for athletes to communicate with them about practices, meets, and other similar matters.

Additionally, many clubs allow coaches to record or take picture of athletes on their mobile devices for training purposes. Some clubs have a policy requiring that coaches delete the pictures and videos from their devices prior to leaving the gym; but most do not have any rules or policies regulating coaches taking pictures or video of athletes. One club visited requires coaches to sign out a camera from club management when taking pictures and videos of athletes for training purposes.

The Content of "Preventing Child Abuse in Gymnastics" is Not Specific to Gymnastics

"Preventing Child Abuse in Gymnastics" provides generic abuse prevention information applicable to any sport. While the chapter includes words such as "coach" and "athlete" and "gymnast," the content and examples in the course are not necessarily specific to gymnastics. For example, the course does not include information about what makes gymnastics a particularly high-risk sport for sexual abuse, including the age of the athletes; the individual nature of the sport; the physical contact







involved; form-fitting, revealing attire; and the like. Gymnastics-specific content is important to ensure that the learner comprehends and can mitigate the gymnastic-specific risks; and also to encourage the engagement of the learner and a recognition that the content applies to his/her environment.

Only Professional Members are Required to Complete "Preventing Child Abuse in Gymnastics"

As discussed in previous sections of this report, professional members are only a subset of the gymnastics community that has access to youth. Professional members do not include other coaches in member clubs, all club owners, or volunteers. Therefore, even though the course provides valuable information about abuse prevention, the intended audiences often do not receive the training.

For example, "Preventing Child Abuse in Gymnastics" includes the following language: "responsibility for risk management remains with the local gymnastics clubs." However, as discussed in Member Requirements and Enforcement, currently, the owner of a member club is not required to be a professional member of USA Gymnastics. Therefore, if the owner is not a professional member, then the owner will never receive this recommendation; nor will the owner know what the recommendations are for professional members of USA Gymnastics. If the club owner is not aware of the recommendations, the owner cannot hold members accountable; and if the owner is not a member of USA Gymnastics or otherwise under its jurisdiction, USA Gymnastics cannot hold the owner accountable to do so.

• "Preventing Child Abuse in Gymnastics" Does Not Clearly Instruct Members to Report All Incidents of Suspected Abuse

The *How to Respond* section of "Preventing Child Abuse in Gymnastics" outlines three steps to consider when responding:

Step 1: Interrupt or disrupt the conduct

<u>Step 2</u>: Report to the designated administrator

<u>Step 3</u>: If one suspects child abuse, consult counsel about whether he/she has a duty to report to the proper law enforcement authorities because legal reporting requirements vary by state.

As referenced in Step 3, mandatory reporting requirements vary by state. In some states, anyone who works with a child is required to report suspected abuse. In other states, only certain individuals are required to report suspected abuse. In other states, the person with direct knowledge of the abuse is required to report; while in still other states, the report may be made by a supervisor. Recommending that an individual contact legal counsel before reporting may in some states violate mandatory reporting requirements. It is best for all members to understand that because of their position of trust and authority with athletes, they should immediately report all suspicions or incidents of abuse regardless of whether they are required under their state's laws to report.

The SafeSport Code for the Olympic and Paralympic Movement, the governing document published by the U.S. Center for Safe Sport, now requires reporting by all "Covered Individuals" to the







Center of "[c]onduct by a Covered Individual that could constitute sexual misconduct." Further, this section provides:

If an allegation involves child abuse or neglect, the matter should also be referred to the appropriate legal authorities. ⁶⁴

Furthermore, the new Federal Legislation, once enacted into law, is expected to require the reporting of suspected child abuse to law enforcement by every person who is authorized to interact with minor or amateur athletes by an NGB or by any facility over which an NGB has jurisdiction. This will include every adult working or volunteering in any member club or at any USA Gymnastics facility or sanctioned event.

• USA Gymnastics Does Not Require Training Regarding the Current Code of Ethical Conduct or the Participant Welfare Policy

As addressed in other sections of this report, USA Gymnastics has historically and purposefully approached abuse prevention through recommendations and not requirements.

While USA Gymnastics has introduced professional members to the Participant Welfare Policy, USA Gymnastics has not provided all members or member clubs with training specific to required abuse prevention policies and procedures (indeed, USA Gymnastics has not required specific abuse prevention policies and procedures of the individual members or member clubs). If members and member clubs are not trained on standardized policies, then members and member clubs cannot know which behaviors to address and report.

 USA Gymnastics Provides Voluntary Abuse Prevention Trainings/Educational Materials to Members, Parents and Athletes

USA Gymnastics offers a variety of optional in-person and online educational trainings to its individual members, member clubs, staff, and the general gymnastics community on topics such as preschool gymnastics, recreational gymnastics, program specific education, positive coaching techniques, first aid, business development, and judging. In addition, USA Gymnastics provides varying levels of optional certifications through the School of Competitive Gymnastics, the School of Recreational Gymnastics, the School of Business, and the School of Judging.

In 2012, USA Gymnastics partnered with a number of external agencies and organizations to provide additional training content specific to abuse prevention. A review of the USA Gymnastics website suggests that the additional abuse prevention trainings and/or content are offered through Darkness to Light, Child Lures, Teen Lures, Stop It Now!, the National Federation of State High School Associations, NetSmartz, Stop Bullying, Kid Power, the Positive Coaching Alliance, USOC SafeSport, and through USA Gymnastics.

Recently, USA Gymnastics added additional abuse prevention content through a new course, U110: USOC Safe Sport. This course, offered directly through Team USA and the U.S. Center for SafeSport, is provided to all members and non-members free of charge. The course provides participants with an overview of misconduct (not exclusive to sexual abuse) in sports, how to recognize

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⁶³ SafeSport Code for the Olympic and Paralympic Movement, *supra*, Section V.A.1.

⁶⁴ *Id.*, Section V.A.2.







misconduct, how to prevent misconduct and abuse, and how to take action when misconduct is suspected, reported, or witnessed. Additionally, the course provides information specific to the athlete/coach relationship across all sports and across all levels. Currently, this course is not required for members. However, interviews with National Team Staff and some USA Gymnastics employees indicated that they were required to complete the course, and many reported that the information was valuable.

In addition, USA Gymnastics now offers U301: Stewards of Children and U302: Recognizing and Responding to Child Abuse through a partnership with Darkness to Light. The Stewards of Children course is offered at a fee to all members (\$10) and non-members (\$25) and the Recognizing and Responding course is free to all members (non-members pay \$25). Stewards of Children is a two-and-a-half-hour course that provides users with an overview of child sexual abuse, circumstances in which the potential for child sexual abuse exists, strategies for prevention, and the signs of sexual abuse. The USA Gymnastics website states that participants can expect four key outcomes from the training:

- 1. Increased awareness of the prevalence, consequences, and circumstances of child sexual abuse;
- 2. New skills to prevent, recognize, and react responsibly to child sexual abuse;
- 3. Proactive, positive input to change organizational policies and procedures;
- 4. Individual commitment to action via a personal prevention plan. 65

Recognizing and Responding to Child Abuse is a one hour course that provides participants with state specific reporting laws and how to effectively report concerns or abuse. Both courses heavily emphasize victim experience through the presentation of first hand descriptions and testimony. While both courses present potentially valuable information to those who choose to participate, the courses do not present any content that is not already covered in the newly added U110: USOC Safe Sport course and neither is a part of required curriculum for any member or employee within the sport. Additionally, neither course provides participants with information unique to gymnastics, the athlete/coach relationship, or gymnastics specifically. The courses are instead intended as general education for all audiences.

USA Gymnastics Voluntary Abuse Prevention Materials are Not Reaching Intended Audiences

One of the most significant abuse prevention actions taken by USA Gymnastics was the offering of Clubs Care (professional member and Member Clubs materials) and We Care in 2012 (athlete and parent materials). Through these programs, USA Gymnastics provided abuse awareness, prevention and reporting information to professional members, Member Clubs, and athlete members and their families. Specifically, the Club Care campaign includes sample policies and procedures for topics including:

- Standards of Behavior
- Grooming and Signs of Abuse
- Safe Environment/Athlete Protection Policies
- More Essential Policies

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⁶⁵ https://www.usagym.org/pages/education/courses/U301/.







- Travel
- Electronic Communication
- Locker Room
- Hiring/Screening
- Training
- Reporting
- Communication with Parents

Even though these voluntary programs include valuable information, many of the member clubs visited were unaware of these resources. In fact, most member clubs do not have written guidelines regarding appropriate and inappropriate physical and verbal interactions.

Even though these voluntary programs include valuable information, many of the member clubs visited were unaware of these resources. In fact, most member clubs do not have written guidelines regarding appropriate and inappropriate physical and verbal interactions. Interviews revealed that many clubs rely on coaches and employees to use "common sense" and their own judgment while interacting physically and verbally with athletes. As a result, member clubs across the country allow a wide range of physical interactions between coaches and athletes – including massaging, stretching, and similar activities. Most clubs reviewed only had verbal interaction guidelines pertaining to providing positive and constructive feedback to athletes.

According to the Safe Sport Timeline, USA Gymnastics began offering Safe Sport trainings at Regional and National Congresses in 2005. However, interviews indicated that overall, typically only the larger, established gyms send coaches or leadership to regional/national congress due to the cost factor; and the training is optional even for those in attendance. In interviews, we did not encounter a professional member who could recall attending abuse prevention training or curriculum at a Congress.

Since the release of the new Safe Sport program, USA Gymnastics has provided additional webinars and video clips from Darkness to Light regarding the prevention, recognition and reporting of sexual abuse, all available through the USA Gymnastics website.

Interviews also revealed that while professional members comply with the training requirements, most clubs do not provide or require additional abuse prevention training for their employees. In addition, many smaller gyms commented that the cost of on line training was prohibitive and felt that as member clubs they should receive access to key additional trainings as a member club benefit.

Lack of Awareness Regarding Various Aspects of Sexual Abuse

Interviews indicate that most coaches (members and non-member coaches) view sexual abuse as a male-coach to female-athlete problem exclusively. Interviewees did not recognize the risk of sexual abuse occurring in same sex pairings, with female adults, or between two athletes. For example, in certain rhythmic gymnastics clubs, the members reported they do not worry about sexual abuse because their gyms have all female staff and only female athletes.







• USA Gymnastics Does Not Provide Parents with Mandatory Abuse Prevention Information

According to the Safe Sport Timeline provided by USA Gymnastics, USA Gymnastics rolled out the "We Care Campaign" in 2012. This educational initiative was targeted at parents to raise awareness of sexual abuse.

USA Gymnastics also provided the Darkness to Light: Stewards of Children online abuse prevention training to parents.

In addition, USA Gymnastics recently updated the parent portion of its Safe Sport web site to include a new on line course – the SafeSport Complimentary Parent Course, created by the United States Olympic Committee. With the new SafeSport information now available, USA Gymnastics has also updated its website with abuse prevention information for athletes.

Interviews indicated that most clubs do not utilize the abuse prevention parent materials provided by USA Gymnastics. In fact, some club representatives stated that they did not feel that the message was something they wanted to display publicly. Some felt that it would cause fear and paranoia among parents or cause them to believe the club has problems related to sexual abuse. A few clubs reported hosting parent meetings for team athletes at the beginning of a meet season or when an athlete first joins the competitive team program. However, very few clubs reviewed incorporate gym policies or abuse prevention materials into those meetings. Many clubs also stated that they did not know how to talk to parents about such a difficult topic so they avoided it and focused on coaches instead. Most – but not all - clubs visited did provide parents the opportunity to view all club policies by placing them at the front desk in an accessible area.

USA Gymnastics Does Not Provide Athletes with Formal Safe Sport or Reporting Training

The "We Care Campaign" also includes posters, videos and other resources through the USA Gymnastics website aimed at educating youth on abuse prevention topics. However, interviews indicated that most clubs reviewed do not provide athletes with formal abuse prevention education on an ongoing basis. Several club owners and coaches discussed that they have conversations with their athletes on who to report to at the club if someone makes them feel uncomfortable or if they experience bullying. Additionally, none of the clubs visited are currently educating athletes on the issue of peer-to-peer sexual abuse. The member clubs visited did not have a formal anonymous method for athletes to report concerns or abuse. Most clubs explained that they do not have an anonymous method of reporting because they believe athletes know to whom they can go at the club with concerns.







Education, Training and Athlete Support

Recommendations

• Implement a Strategic, Comprehensive Abuse Prevention Training Plan for Members, Parents and Athletes

Having the entire gymnastics community well trained in child abuse prevention is essential to creating a safe environment within USA Gymnastics. The more members, parents and athletes know about abuse prevention, the more comfortable they will feel reporting any concerns. Abuse risk management training sends a powerful message to parents, athletes, and to potential abusers. It tells parents, "We care enough about the well-being and safety of your child to require training." It tells athletes, "We care enough about you to make sure you are safe." It tells potential abusers, "Abuse will not go undetected or unreported."

Infrequently requiring abuse prevention training and simply making voluntary abuse prevention resources available through mailings and the website has not resulted in the intended outcome for USA Gymnastics. A more strategic, comprehensive plan is necessary to ensure all audiences are educated in USA Gymnastics policies and procedures for abuse prevention. The following recommendations in this section should aid in the development of this plan.

Create Standalone Course in "Preventing Child Abuse in Gymnastics"

To effectively demonstrate USA Gymnastics' commitment to preventing abuse and to effectively train the adults in the community on abuse prevention, the abuse prevention material should be removed from the lengthy Safety Certification Course and delivered as a standalone course.

Without proper abuse prevention training, members of USA Gymnastics cannot contribute to a safe environment for the athletes in their care. Effective training can teach adults to understand their role as protector, to recognize and respond to inappropriate interactions that may foretell abuse, to monitor high-risk activities and locations and to protect themselves and their colleagues from false allegations of abuse. Training also communicates that the organization has shown due diligence in its attempts to prevent abuse and it sends the message: "We will not tolerate any form of abuse in this organization."

- Revise and Expand the Current "Preventing Child Abuse in Gymnastics" Course to Include the Following, at a Minimum:
 - Content and examples specific to gymnastics

To be effective, training content must be relevant, timely and applicable. By including gymnastics-specific content in the abuse prevention course, the learners are more likely to comprehend and remember the teaching points of the course.







Updated Section on Reporting

Instead of instructing members to "consult counsel about whether he/she has a duty to report to the proper law enforcement authorities because legal reporting requirements vary by state," revise Step 3 to state: "Report suspected abuse to the proper authorities," and clarify that this means the designated local law enforcement agency as well as the U.S. Center for SafeSport and USA Gymnastics.

o <u>Information about other types of sexual abuse</u>

Abuse does not occur solely from male coach to female athlete. Abuse can occur in any situation where one person is put in a position of authority over another person or is perceived to have greater power than the other person. For example, research has shown a significant increase in incidents of youth-to-youth abuse over the past few years. Any environment where youths are changing clothes, traveling, or are unsupervised for periods of time (such as hotel rooms), presents the possibility of youth acting out sexually.

• Ensure That USA Gymnastics Consistently Reinforces the Revised Training Content Through Annual Training Requirements

People tend to forget what they learn in training – especially when that training is repeated only once every four years. By requiring this revised training more frequently, members are more likely to remember more of the topics addressed.

Requiring abuse risk management training annually refreshes what individuals have previously learned while providing additional knowledge and skills that will further enhance their ability to protect those in their care. Furthermore, booster training keeps safety concerns front of mind and demonstrates the organization's commitment to preventing abuse.

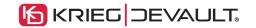
 Create a Required, Annual Safe Sport Training for All Members Regarding USA Gymnastics' Revised Abuse Prevention Policies, Procedures, and Reporting Mechanisms.

Organizational policies and procedures are essential to effective abuse risk management. They define the organization's philosophy and outline how adults and youth are to operate within the organization. To become part of the organization's culture, every person in the entire organization must be aware of these policies and understand his/her individual responsibility for implementing and enforcing them.

The new Safe Sport course should include the following content:

- The revised USA Gymnastics Code of Ethical Conduct
- The revised Safe Sport Policy for USA Gymnastics
- A clear explanation of disciplinary measures applicable to violations
- O How to report conduct concerns to the proper law enforcement authorities; USA Gymnastics; and the U.S. Center for SafeSport and the requirement that this be done

This training should be available both in person at a variety of times and locations as well as on line. To the greatest extent possible, training should be provided in person to enhance the learning and recollection of those receiving it. As USA Gymnastics updates policies and procedures, the training







should reflect those changes. In addition, USA Gymnastics staff should create a system for monitoring yearly compliance with this requirement.

 Include Mandatory Plenary Sessions for All National Congress Attendees on Safe Sport Requirements and Abuse Prevention Information.

The Annual Congress is the largest gathering of USA Gymnastics members and therefore presents the perfect opportunity to demonstrate USA Gymnastics' commitment to abuse prevention through a mandatory Safe Sport update session. While the Annual Congress will not reach the entire universe of members who need to receive training, it reaches a significant number – perhaps 500 coaches – and required participation by all attendees will send an important message about the firm commitment of USA Gymnastics to protection of its athletes, as well as its clear expectation that members will share that commitment.

Additional opportunities for mandatory in-person training can occur at annual regional congresses and/or trainings.

 Require All Member Clubs to Host Annual Training for Coaches, Athletes and Parents (All Together) Regarding the Revised Code of Ethical Conduct and Revised Safe Sport Policy

Reviewing abuse prevention information and policies annually with coaches, parents and athletes helps to foster transparency and accountability among all parties involved. If a coach has bad intentions, this training puts him/her on notice that other coaches, athletes, and parent are aware of the club's abuse prevention policies. Hopefully, such a training will encourage an offender to self-select out of the organization. And the fact that the training includes parents, athletes and coaches together will make it clear to the athletes and their parents not only what the boundaries are and what behavior is prohibited, but also the fact that the coach is well aware of those boundaries and prohibitions. This should empower athletes and their parents to speak up when someone in authority engages in prohibited behavior.

Consider Creating a Safe Sport Certification for Clubs

Some other NGBs provide an avenue for their affiliated member organizations to demonstrate their commitment to protection of the athletes and in return receive certification as a Safe Sport environment. This certification can be featured in signs in the affiliate location as well as on the organization's web site to signal to athletes, their parents and others that they take the protection of their athletes seriously and will take actions to guarantee their safety.

In addition, Safe Sport certified clubs would be in a position to mentor other clubs and thus not only increase the number of certified clubs but also spread the word that the protection of athletes is the expected norm in the sport.

 Provide Parents with Information about USA Gymnastics Abuse Prevention Policies and Procedures and How to Protect their Children from Abuse on an Annual Basis

By providing parents with information about how to keep their children safe from abuse, USA Gymnastics can enlist parents to ensure member policies are followed. Because USA Gymnastics staff and members cannot be everywhere, parents can recognize interactions that may be inappropriate or that put their youths at risk and report that information accordingly. Building a partnership with parents







can expand informal monitoring to include the adults most involved in the lives of USA Gymnastics athletes.

Provide Athletes with Age Appropriate Abuse Prevention Education on an Annual Basis

Athletes can contribute to their own safety if they know what is acceptable and what to expect from coaches, members and other program participants. If violations occur, they can spot them and let others know.

When athletes know the policies regarding appropriate and inappropriate interactions between adults and youth, and that those policies are taken seriously by the organization, they will be more likely to report violations. Athletes should know how programs are governed and monitored, what contact is permitted between coaches/members and athletes, and how to contact at least two people within USA Gymnastics to express concerns. Keeping athletes informed and involved makes them part of the risk management team of the organization.

Some forward-leaning clubs have discussions with parents and athletes, with coaches present, about the conduct that is expected of coaches and other staff by the clubs. As indicated on the preceding page, it is recommended that USA Gymnastics require all clubs to have a meeting with all athletes, parents and coaches at the outset of the athlete's involvement with the club and at least annually thereafter, to make clear exactly what kind of behavior is prohibited on the part of coaches, other staff and volunteers as relates to the athletes. If the athlete and his/her parents hear this information regularly and know that the coach heard it, too, they will be more likely to feel confidence in reporting behavior violative of the rules.

This type of process should be, at a minimum, held out as a best practice and help to qualify a club for high-achiever status with USA Gymnastics that could lead to special recognition among member clubs.

Provide a Stronger Support System to Athletes

As described in other sections of this report, USA Gymnastics athletes are conditioned not to complain, not to report injuries, not to report inappropriate or questionable behavior of coaches, etc. because reporting may result in a lost opportunity to compete or excel, as well as ostracism by their peers. Providing these young athletes with a trusted support system may break down some of those barriers to reporting. If athletes know their parents are trained, perhaps they will report to them.

In addition, if athletes know they have access to a trusted adult outside of USA Gymnastics, that might provide another impetus for reporting. We suggest that an independent ombudsman or trusted mentor should be made available to elite athletes. Clearly there is a concern on the part of athletes about reporting to anyone in a position to impact their competitive opportunities; so some independent, trusted liaison is critical to encouraging reporting.

One of the members of the Policy Review Panel, the owner of a large gymnastics club, suggested the analogy of child actors in Hollywood. There is a system within the movie industry requiring an adult on the set whose interest is purely advocacy on behalf of the child actor. It is recommended that a similarly independent advocate be available to athletes, particularly elite athletes at the National Team Training Center (see below).



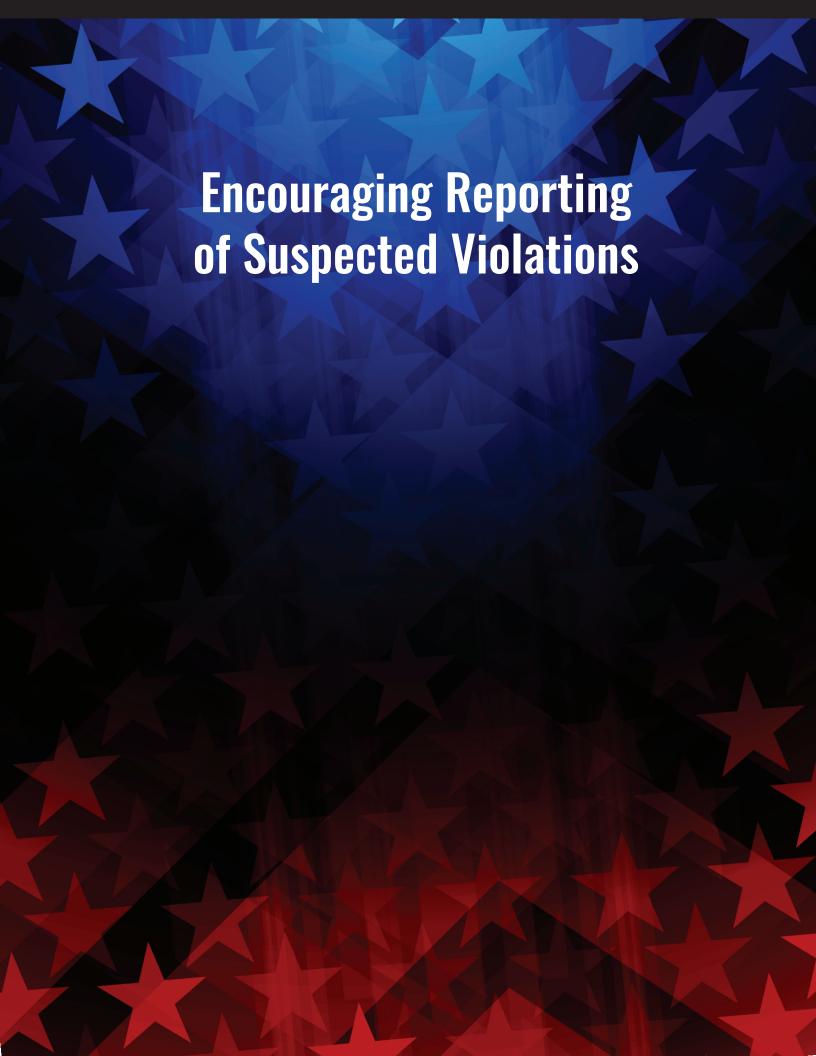




• Consider Creating an "Athlete Bill of Rights"

As indicated in the initial sections of this report, young gymnasts live sheltered lives, centered around the gym and their rigorous training regimen. The more they excel at the sport, the more isolated they can become; and it is difficult for them to identify the line between rigorous training and abusive behavior. They may not even recognize in some cases that they are being abused, whether physically, emotionally or sexually; and if they do, they feel powerless to do anything about it. And they certainly are not aware of the types of behaviors that constitute "grooming" for sexual abuse.

As a part of the support system proposed immediately above, we recommend the development of an "athlete bill of rights" making it clear to young gymnasts what types of behavior they should not be expected to tolerate, and the actions they can safely take to protect themselves and obtain protection from adults responsible for their well-being. This should include instruction on alternative ways to report violations of conduct rules that they may feel safe employing.









Encouraging Reporting of Suspected Violations

Findings

 The Overall Environment Surrounding Competitive Gymnastics, and in Particular USA Gymnastics, Tends to Suppress Reporting

As indicated throughout this report, there are many barriers to the reporting of abuse by athletes and their parents. They include:

- Age and emotional development of athletes
- Lack of comprehension by athletes about, and recognition of, wrongful acts
- Strong desire to please authority figures
- Power imbalance inherent in the sport
- Culture of mental toughness, no complaining
- Lack of trust relationships
- Concern about impact of reporting on success (team selection; future scholarships)
- Ostracism of those who do complain
- Perception that any report must be in the form of a written, signed complaint that will be shared with the alleged perpetrator

For the reasons outlined above, young athletes, their parents, and even some club owners and coaches are highly unlikely to report abuse. In our interviews, we gathered that in some cases, abused athletes, feeling trapped in a situation they felt powerless to stop, hoped in vain for another adult to step in and stop the abuse.

Further, some club owners are reluctant to report abuse. This is not by any means universal, and that should be clearly understood. The vast majority of the adults involved in the sport have nothing but the best interests of the athletes at heart. However, some do not recognize abuse when it occurs; some are desperate for coaches to keep up with the influx of young aspiring gymnasts; and some fear that the club itself will get a bad reputation if it is learned that an athlete was abused by someone at the club.

The adults who were unaware of abuse by other adults in the sport often express chagrin and bewilderment that they were unable to detect abuse that was occurring even when they were in the vicinity of it. Without clear guidelines for conduct – for example, under no circumstances is any coach ever to be alone with an athlete – other well-meaning adults can fall victim to the assurances of a wrong-doer. As an example, one abusive coach used to bring an athlete into his office frequently, and other coaches believed him when he said he was counseling her.

 USA Gymnastics Has Not Historically Required Reporting of Misconduct, Either to USA Gymnastics or to Law Enforcement

At the time this report is being written, USA Gymnastics does not require that its members report suspected child abuse. The Participant Welfare Policy in effect as of mid-June 2017 provides as follows:







Any person who reasonably and in good faith believes a member of USA Gymnastics has abused another person, whether physical or sexual, such person may notify the USA Gymnastics National Office pursuant to Articles 9 and/or 10 of the USA Gymnastics Bylaws.⁶⁶

The policy indicates that USA Gymnastics, in turn, will "follow applicable law" in reporting suspected abuse to law enforcement, and "may" report to law enforcement, "even if not compelled by law to do so", if it believes it "necessary to protect a person from the possibility of further abuse". 67

As a result, club personnel have been uncertain about the reporting requirements and processes. There is uncertainty about what rises to the level of a reportable offense; and USA Gymnastics members are not required by USA Gymnastics to report abuse or other wrongdoing. The process itself is cumbersome and somewhat mysterious to those in the field.

The lack of any requirement on the part of USA Gymnastics that members report suspected abuse or other misconduct has done nothing to encourage reporting. And a lack of enforcement mechanisms in general can mean that policies will be ignored by those whose conduct they are intended to control.

USA Gymnastics and its member clubs have in the past focused on whether a person is mandated to report suspected abuse to law enforcement under the laws of the state in which the abuse allegedly occurred, rather than mandating reporting in all instances.

These policies are likely to change, if for no other reason due to external forces. The U.S. Center for SafeSport now requires every "covered adult", meaning a person who is under the jurisdiction of an NGB, or was at the time of a reported incident of abuse, or is an applicant for membership, to report suspected abuse, in particular sexual misconduct, to the Center. The Federal Legislation will require reporting to law enforcement of any suspected abuse of a minor.

As indicated elsewhere in this report, USA Gymnastics is in the process of revising its Participant Welfare Policy, aligning it with the policies promulgated by the U.S. Center for SafeSport, and rebranding it the "USA Gymnastics Safe Sport Policy". Reporting of suspected child abuse is expected to be required under the new policy, both to the Center and to law enforcement.

• Law Enforcement Unlikely to Prosecute "Grooming" Behavior, and Likelihood of Center Pursuing it is Unknown

A great deal of the activity that is high risk and can lead to sexual abuse, often described as "grooming" activity, does not fall within the definition of child abuse under criminal statutes, and therefore cannot be prosecuted. However, intervening during the grooming stage can prevent abuse from occurring; thus, it is critically important to stop this activity in order to protect minors from abuse.

While it is unknown whether the U.S. Center for SafeSport will resolve cases that fall into this category, given the fact that there are 47 NGBs and will be myriad reports of abuse it is somewhat likely that the Center will need to rely on the NGBs to enforce the proscriptions on such behavior. This will leave USA Gymnastics with the responsibility of doing so.

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⁶⁶ Participant Welfare Policy, *supra*, Section 3, <u>Reporting Suspected Abuse</u>.

⁶⁷ *Id.*, Section 2, <u>Legal Reporting Requirements</u>.

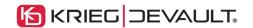






• The Reporting Mechanism is Cumbersome and Discourages Reporting of Abuse

As indicated in a prior section of this report, Article 10 of the Bylaws calls for a grievance style "complaint" process. It is perceived by athletes and their parents that they must file a written report with USA Gymnastics headquarters in order to initiate action against someone who is abusing an athlete; and that their written "complaint" will be shared with the perpetrator. His lawyer will have the opportunity to cross-examine the "complainant" in a hearing. The entire process is foreign to young athletes, who know nothing of such processes and are taught that to complain is not encouraged.







Encouraging Reporting of Suspected Violations

Recommendations

Permit Third Party Reporting of Policy Violations and Abuse to USA Gymnastics by Third Parties

Third party reporting should be encouraged, not discouraged as it appears to be now. A young athlete will not feel comfortable telling anyone in authority about abuse, but may tell someone else. Third parties must be encouraged to report suspected abuse, not only to USA Gymnastics but also to law enforcement. Members should be required to report any suspected abuse; and non-members should be encouraged to report suspected abuse by any member as well.

• Require Reporting of Abuse and Reporting of Policy Violations

Any member who suspects abuse should be required – not just permitted – to report to law enforcement, as well as the Center and USA Gymnastics.

With regard to reports to law enforcement, members should be required to report suspected abuse regardless of whether they are mandated by that state's laws to report.

Once the Participant Welfare Policy and the Code of Ethical Conduct are revised, USA Gymnastics should also require reporting of violations of the code that fall short of actual suspected abuse to USA Gymnastics, and should be prepared to act promptly on them.

It does appear that as to member reporting, these recommendations will be followed in the revision and rebranding of the Participant Welfare Policy to the USA Gymnastics Safe Sport Policy.

• Enforce Serious Consequences for Failure to Report Abuse

As indicated above, there is currently no requirement that members report abuse, much less any sanction for failure to do so. USA Gymnastics should institute an escalating scale of sanctions for failure to report violations of the revised Code of Ethical Conduct, ranging all the way up to loss of membership status on the part of a club and its owner, or a coach who fails to report suspected physical, sexual or emotional abuse. Sanctions for failure to report isolated violations of the Code of Ethical Conduct, as revised per our recommendations, would be expected to be of lesser magnitude; but a failure to report suspected abuse to law enforcement, USA Gymnastics and the Center should be grounds for termination of membership.

Consequences for failure to report should be clearly defined for each type of member, including member clubs, club owners, other individual members, and USA Gymnastics staff.

Failure to report on the part of a member will not always be readily apparent to USA Gymnastics; but where it is identified and proven under a preponderance of the evidence standard, it should be sanctioned firmly and promptly. Members should also be severely disciplined for any retaliation against any person in response to a report.







Similarly, in order to maintain the integrity of the process, false reporting should be severely sanctioned. A knowingly false report of child sexual abuse should be grounds for termination of membership.

Expand Reporting Methods to Encourage and Facilitate Reporting

As suggested in our findings, the current process for reporting of abuse is not one that encourages reporting by athletes and their parents, who are already loath to step forward. There should be additional means of reporting, beginning with a clear statement that a written complaint by the alleged victim or victim's parent is not required to initiate the process.

It is already possible to make reports by telephone to the primary office of USA Gymnastics, but it appears the procedure is not well understood. Those who have reported often do not hear back for a lengthy period of time; failure to provide a timely response generally discourages reporting. It is also possible to make an anonymous report, though both USA Gymnastics and the Center indicate that it makes investigation more difficult.

There should be multiple means of reporting, including anonymous reporting. They should include athlete-friendly methods, including on-line reporting; some have also suggested a cellular telephone application ("app"), which would be a familiar means of communication to today's young athletes. The app could potentially have broader functioning, such as allowing athletes to receive feedback, ask questions and interact with other athletes.

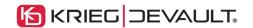
It should be noted that the group of former gymnasts who worked together in 2012 to create recommendations for USA Gymnastics reportedly included among those recommendations that an abuse reporting hotline should be created that would permit anonymous reporting by athletes and their parents. Other organizations using current best practices often use the term "helpline" to describe this method of communication, as it can encourage reporting. Such a "helpline", to be effective, would have to be outside the chain of command of USA Gymnastics but have the ability to ensure that reports would be investigated – or reported immediately to law enforcement if the report provided reason to suspect abuse.

Accept and Investigate Reports Relating to Misconduct by a Member in Which the Victim is a Non-Member

It appears that, at least in past years, USA Gymnastics officials would decline to investigate reports of misconduct by members against non-members, based on their understanding of the limitations on their jurisdiction.

Without question, the focus should be on the offender and not on the status of the victim. Thus, any member, applicant or person who was a member at the time of an alleged offense should be subject to sanction regardless of whether the minor (s)he is accused of having abused is or was a member of USA Gymnastics. The organization should ensure that a report is made to appropriate authorities in any case of suspected abuse committed by a person under the jurisdiction of USA

⁶⁸ "Prominent Gymnasts Renew Call for Change," *The Indianapolis Star,* October 8, 2016, http://www.indystar.com/story/news/investigations/2016/10/08/prominent-gymnasts-renew-call-change/91465112/.





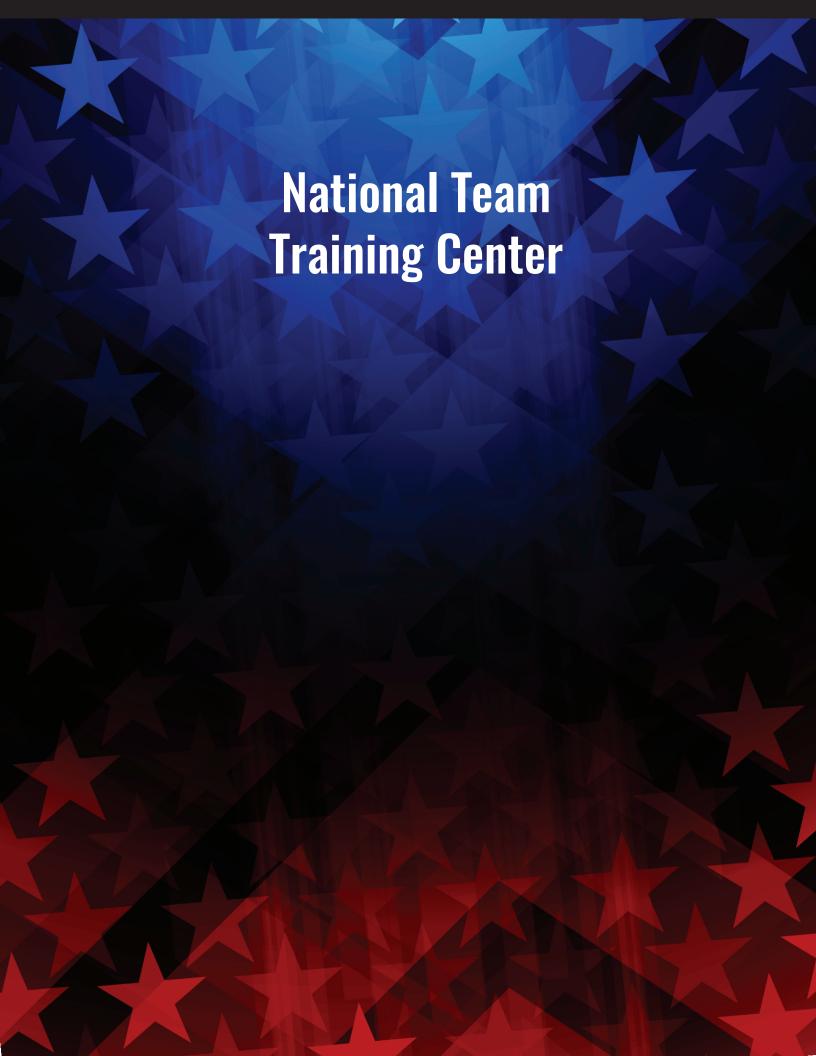


Gymnastics, regardless of who the alleged victim(s) may be. In fact, even if the alleged abuser is a non-member, suspected abuse should always be reported immediately to law enforcement.

Provide Training to All Members and Staff Regarding Reporting Requirements

As indicated elsewhere in this report, simply having a policy in place does nothing to ensure that the policy will be followed. It is critically important that there be consequences for failure to follow the policy and that the policy is enforced, as indicated above. It is also critically important that everyone expected to understand and abide by the policy, including all members as well as USA Gymnastics staff, receive periodic training regarding, among other things:

- What is to be reported
- o Reporting requirements
- Methods of reporting
- o Protections for those who report
- Process following a report
- Consequences for failure to report









National Team Training Center

Background

The National Team Training Center (also referred to as 'The Ranch' or the NTTC) is the training facility for Women's Artistic, Acrobatic Gymnastics, Trampoline and Tumbling, and Rhythmic Gymnastics. The Women's Artistic Gymnastics national team began training at the Ranch in 1999 due to the creation of a semi-centralized training system under the leadership and influence of Bela and Martha Karolyi. It was not until 2010 that the other gymnastics programs began utilizing the Ranch as their National Team Training Center.

Currently, the NTTC, owned by Bela and Martha Karolyi but leased by USA Gymnastics, is located in New Waverly, Texas in the Sam Houston National Forest. The property has 3 training gyms, multiple "motels" (multi-room buildings, the individual rooms of which sleep 1-4 people), a cafeteria, and multiple recreation areas. The motels can accommodate as many as 115 individuals. Additionally, there are a number of dormitory-style cabins, set some distance away from the motels and gyms, that historically have been used for summer camps. However, due to changes to the property, the cabins are not currently in use.

Each year, the NTTC hosts two TOPS (Talent Opportunity Program) camps for young girls age 7-10, multiple Developmental Camps for girls approximately age 9-12 who are approaching the elite level, and monthly National Team (elite level) camps. Each camp uses the motels for athlete, coach, and National Team staff accommodations. Each camp is staffed by National Team staff who are specialists in events, dance, and/or choreography. Athletes travel with their coaches (sometimes one-on-one) and train under the guidance of the National Team Coordinator, National Team Staff, and their personal coaches.

Though it had previously been the intention of USA Gymnastics to purchase the Ranch from the Karolyis, it was announced in May 2017 that this will not occur. USA Gymnastics will continue to use the Ranch for the duration of its current lease, but has already begun searching for a new National Training Center location. The following findings and recommendations apply to both the Ranch and the future National Training Center.







National Team Training Center

Findings

• Coaches and Athletes Receive Limited Information about the Policies and Procedures Associated with the National Team Training Center

According to interviews, upon arriving at the NTTC, athletes and coaches are provided with a brief overview and a reminder of the rules for the NTTC. These sessions are often informal, and typically consist of necessary reminders gathered from previous camps. A list of rules is distributed, but the list is fairly basic and does not include much information relating to athlete privacy and safety (Safe Sport issues).

Interviews with coaches indicated that many new coaches and athletes do not know what to expect during their time at NTTC; and, are provided with minimal details about what will occur during their stay. In fact, many coaches rely on following veteran coaches to learn what to expected and how the NTTC operates.

• There is Not a Clear Policy Covering Transportation To and From the NTTC

While we are told that, generally, one-on-one situations between athletes and coaches are discouraged, there is no prohibition on an individual coach and individual athlete driving in a car together to the NTTC. Often, only one athlete from a particular club is invited to attend a camp, and thus that athlete's coach will be invited as well. They generally travel together; since the NTTC is some distance from most clubs, most will fly to Houston and then must traverse some distance to reach the NTTC. Many coaches rent cars, and will often drive alone with their athlete to the site in New Waverly. Such one-on-one travel is not prohibited, though it is theoretically avoidable – we are told that the USA Gymnastics personnel are able to provide bus or shuttle service from the airport to the site.

Not All Camps Have Formal Monitoring Plan for Athlete Lodging

Interviews and observations indicate that outside of the regularly scheduled training sessions in the gyms, there is very little supervision structure for the athletes while at the NTTC. While the TOPs camps and Developmental camps include an individual who serves as a dorm or motel "mom" to the athletes, checking on them regularly in the evenings, the National Team Training Camp does not provide anyone in an equivalent role, despite the presence of athletes potentially as young as 11 years old. Furthermore, previous NTTC athletes reported that USA Gymnastics staff did not check in on them in the evenings while they were at camp, regardless of their age when they were in attendance.

Athletes are assigned rooms and are instructed that they are not allowed to go to coach or staff motels, regardless of relationship (even if an athlete's parent is also her coach). In addition, coaches and staff, male and female, are prohibited by policy from going to athlete rooms for any reason. However, there is not a designated staff member or other person who ensures these rules are followed. And based on the allegations related to Dr. Nassar (see above), it appears that the rules are not only capable of being broken but allegedly have been on multiple occasions. For example, the former national







champion rhythmic gymnast who testified before a U.S. Senate committee regarding abuse by Dr. Nassar testified that the abuse occurred in her room at the NTTC.⁶⁹

• The Athlete Representative Has Conflicting Duties

Based on her title, the "Athlete Representative" on site at the NTTC for national team training camps is someone who should represent the best interests of the elite athletes. The current Athlete Representative is a former Olympic gymnast. Her official duties do not appear to be represented in any position description or policy.

Some individuals interviewed at the NTTC reported that the Athlete Representative is responsible for checking in with the athletes, determining whether they have any problems or concerns, and being an advocate for their needs. However, the Athlete Representative is also responsible for selecting athletes to participate in competitions (see below). As a result, almost all interviewees reported that athletes do not report concerns or issues to the Athlete Representative for fear that the report will affect their chances to compete in a meet. Additionally, the Athlete Representative is not trained on her expected role in relation to the athletes and/or their parents.

Athletes are Not Provided with an Accessible and Reliable Way to Contact Their Parents

Communication with parents for each of the camps has the potential to be severely limited. USA Gymnastics and the NTTC typically do not communicate directly with the athletes' parents or guardians. Instead, all communication is routed through the coaches, who can present as much or as little detail to parents as they choose. Further, due to the remote location of the NTTC, most individuals do not have any cellular telephone service; and no phones are provided within the athlete rooms or common areas. If athletes use a cellular carrier that services this remote location, they may be able to contact their parents during free time, but if they have a cellular carrier that does not have service in the Sam Houston National Forest, they may be completely unable to contact their parents in the event of a concern, problem, or incident.

• The High School Aged Counselors in the TOPS Program Are Not Screened for Abuse Prevention or Trained in Abuse Prevention

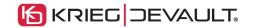
At a TOPS camp, each athlete is assigned to a housing grouping with a high school aged counselor. This individual is responsible for the young athletes in her charge at any time they are outside of the gym, and is the only non-athlete permitted in the rooms with the athletes. However, interviews revealed that these individuals are not screened or interviewed, but instead are selected based on their relationship with one of the staff members. In addition, the counselors are not provided with any training related to abuse prevention.

The Athlete Recovery Center Room at the Ranch Is Not Suitable for Medical Examinations

All athlete medical treatment is performed in the medical office in the training gym or in the Athlete Recovery Center (ARC), previously referred to as the 'End Room' due to its location at one end of the Beijing Motel.⁷⁰ This room consists of a very small, enclosed area with couches, chairs, massage

⁶⁹ Testimony of Jessica Howard before the Committee on the Judiciary, United States Senate, March 28, 2017, supra

⁷⁰ Each "motel" is named after an Olympic Games host site.







tables, and other treatment and recovery equipment located in front of a TV. There is minimal visibility into the room and it is not in a location that lends itself to observation by passersby.

Interviews with NTTC staff indicate that staff are never to be alone with an athlete. However, during the site visit, we encountered many circumstances where one-on-one situations can easily occur. For example, if an athlete is the first or last scheduled for medical treatment in the evening, no other athletes or coaches are likely to be present in the ARC. In addition, previous NTTC athletes reported that no one checked in on them while they were at camp, regardless of their age when they were in attendance.







National Team Training Center

Recommendations

• Create a Policy Handbook and Code of Conduct for All Coaches Bringing Athletes to the Training Center.

The list of rules provided to athletes, coaches and national team staff at the NTTC should be expanded to include formalized policies on appropriate physical interactions, verbal interactions, one-on-one contact, and off-limits areas. Further, USA Gymnastics should ensure that parents of athletes training at the NTTC receive a copy of the handbook, code of conduct and information on whom to contact with concerns of any kind. We suggest that USA Gymnastics consider providing this information to parents at the point of application to the NTTC, so that parents can review it in advance and have a good understanding of the applicable rules and what protections are available for their children.

• Develop a Transportation Policy for National Team Training Center and Include this Information in the New Handbook

We strongly recommend that arrangements be made to ensure that athletes do not travel alone with a coach in a car or other motor vehicle to the NTTC. Athletes should be transported by NTTC personnel by bus or shuttle from the airport to the NTTC. Under no circumstances should any athlete be alone with any adult in this setting. Coaches would also be permitted to ride the bus, as long as there are multiple adults and/or multiple athletes in the vehicle.

We understand that many coaches wish to rent a car at the airport so that they will have transportation off site during evening hours after training is concluded for the day. There is no reason why coaches should be prohibited from renting a car, but we recommend that they not be permitted to transport an athlete alone with them in the car.

Formalize the Athlete and Coach Orientation Meetings at Each Specific Camp

There is a brief orientation meeting for athletes, and a separate one for coaches, upon arrival at the NTTC for a training camp. These meetings should be formalized, with a specific check-list of issues to be addressed in person by USA Gymnastics leadership.

All orientations should include a review of abuse prevention policies and the code of conduct. In addition, procedures for how to report concerns or perceived problems should be discussed, both with athletes and coaches. Reporting options should include the ability to report anonymously, and the procedure for reporting must be clear and welcoming.

In the athletes' meeting, the Athletes' Bill of Rights, recommended elsewhere in this report, should be provided and discussed.

In the coaches' meeting in particular, the orientation should include a discussion of individual roles and responsibilities (individual coach versus national team coach versus director).







The National Team Coordinator must provide vocal leadership at each camp as to the commitment of USA Gymnastics to protecting young athletes, what behavior will be required, and how young athletes are expected to be treated.

Create a Formal Monitoring Plan for All Athlete Lodging

We recommend that the system of providing a "dorm mom", independent of the USA Gymnastics employment hierarchy, be formalized for all camps, and that monitoring during free time and evenings be frequent, with a record made of each room check. This should apply not only to Developmental and TOPS camps, but also to national team (elite athlete) training camps.

Provide Athletes with a Reliable and Accessible Way to Call Home/Parents.

A method should be developed, as soon as possible, to ensure that the athletes have contact with the outside world, and particularly with their parents, when they are at a training camp at the NTTC. If it is necessary to provide a satellite telephone, readily accessible to the athletes, that should occur at the earliest possible time. In the longer term, it is highly recommended that a way be found to ensure that cellular service is provided to the NTTC grounds. We understand that the price quoted by the nearest cellular provider is excessive; but this is a location where athletes are particularly likely to feel isolated and alone, and we believe it is critically important to provide a way for them to call home.

• Formalize the Role of the Athlete Representative and Ensure This Individual Does Not Continue to Sit on the Selection Committee.

We recommend that the Athlete Representative's role be clarified and formalized, with a specific position description. We further recommend that her role include the following:

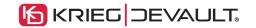
- Meet all parents/guardians of National Team members. Explain the Athlete
 Representative role in relation to members of the national team. Provide contact
 information to the parents, including a way they can reach her before, during and after
 the training camp.
- Check in with each athlete during every camp, at least once, to offer assistance and ask
 if the athlete has any concerns.
- o Follow up with gymnasts/parents after each camp to ask the athlete's reaction to the training camp, whether there are any concerns, etc.

We also recommend formal training for the Athlete Representative on child psychology and physiology, the dynamics of child abuse and the risks associated with the competitive gymnastics environment, as well as how to respond to concerns expressed by athletes. Further, we recommend that the position should rotate regularly, which can be accomplished with enforced term limitations.

Finally, the Athlete Representative, if these are to be her duties, should have no role in team selection (see below).

• Formalize Safety Procedures for the TOPs Camp

We believe that additional precautions should be taken with respect to the volunteer TOPS camp counselors, who are not currently screened or trained. We recommend the following:







- Create a policy handbook for TOPS camp counselors.
- Require aspiring TOPS camp counselors to complete an application designed to assess for abuse risk.
- Require aspiring TOPS camp counselors to complete an interview with a trained interviewer which includes behaviorally based interview questions designed to assess for abuse risk. The interview may be conducted by the Director of the TOPS camp, but only if the Director has been trained in the use of the behaviorally based interview.
- Require aspiring TOPS camp counselors to provide at least one character reference, checked by the Director of the TOPS Program.
- Require abuse prevention and peer-to-peer training for all TOPS camp counselors.

Require all National Team Coaches and Staff to Complete an Intensive In-Person Training on Abuse Prevention and Athlete Safety.

Without a clear understanding of the factors that constitute and can lead to abuse, the adults responsible for the lives of the young people in their charge at the NTTC cannot hope to protect them. All national team coaches and staff, including the national team coordinator, should be required to complete intensive, in-person training on abuse prevention and athlete safety, and to repeat that training periodically. The abuse prevention training should include all forms of abuse and not be limited to sexual abuse.

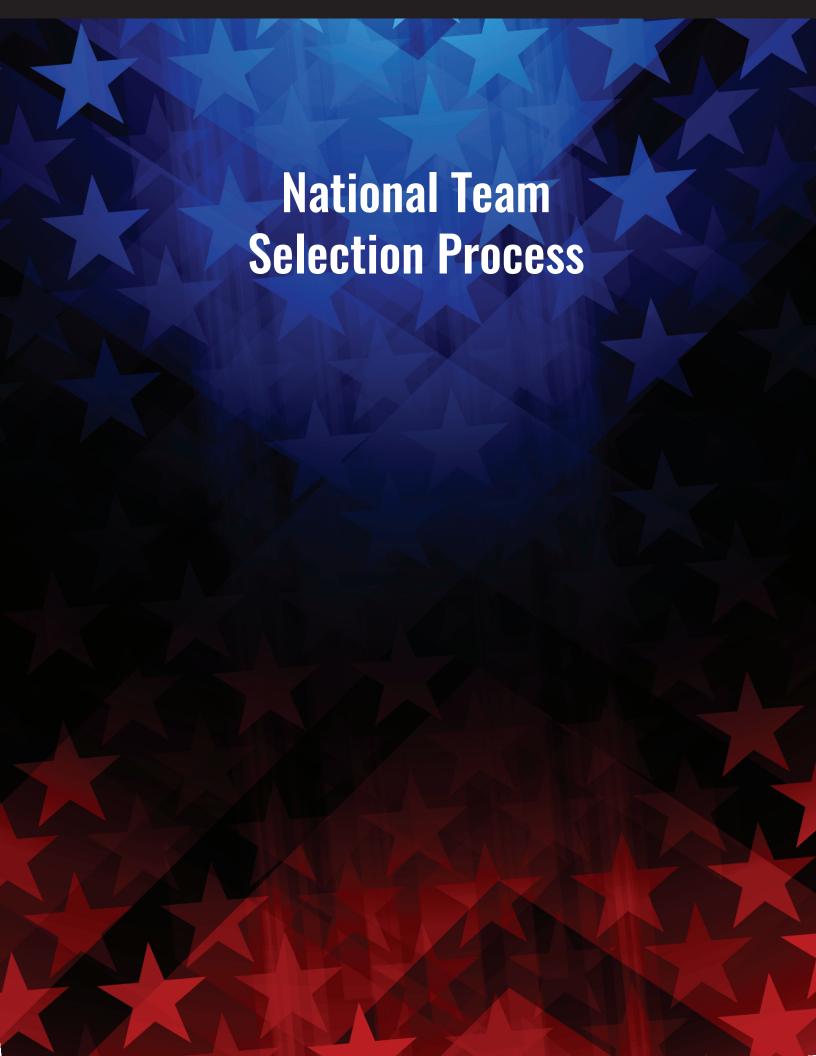
Discontinue Use of the Athlete Recovery Center in the Beijing Motel and Consider Moving to a More Central and Open Location

As indicated in the findings above, the placement of the Athlete Recovery Center (ARC) is potentially conducive to abuse. During the time that the Karolyi Ranch site is still in use as the NTTC, we consider moving the ARC to a more visible and accessible location, such as the common room in the "Los Angeles" motel. Further, every athlete, coach and staff member should be continually reminded that no adult is ever to be alone with any athlete in any location, including in the ARC; and arrangements should be made ensuring that there are never fewer than three people in the room.

• Improve Physical Safety and Emergency Communications

A new process for communications has been developed at the NTTC, involving communication via radio "walkie-talkie" available in each motel unit. The emergency communications procedures should be enhanced and written procedures updated to reflect the changes; and USA Gymnastics should ensure that all athletes and coaches are well aware of the procedures.

The NTTC, sited as it is in the middle of a national forest, is extremely isolated. At night, the grounds are very dark. Members of the Policy Review Panel recommend improved outdoor lighting, as well as the addition of surveillance cameras.









National Team Selection Process

Findings

The selection process for the national women's artistic gymnastics team has changed over the years. It was formerly objective, at least to the extent possible in a sport the judging of which is necessarily somewhat subjective. The athletes were selected for the Olympic team based on their scores at specific competitions: those who scored highest in the aggregate received a berth on the team.

According to Ryan, "Little Girls in Pretty Boxes," in 1992 the U.S. Gymnastics Federation (predecessor entity to USA Gymnastics) created a clearly understood selection process for the U.S. Olympic team: "The U.S. Gymnastics Championships would count 30 percent toward qualifying for the team and the [Olympic] trials would count 70 percent. The seven gymnasts with the top combined scores would make the training team: six would compete in the Olympics, one would be the traveling alternate."⁷¹

Since about 2000, the process has been different, in part due to a reduction by the International Gymnastics Federation (FIG) in the team size and the number of athletes permitted to compete in each event. In the interest of earning team gold medals, it was determined that the team needed to be well-rounded, and include participants that excelled in each aspect of the competition: vault, floor exercise, uneven parallel bars and balance beam. No one person is likely to be the best in all four; and a combination of skills is desired in order to provide back-up to even the most accomplished gymnast. In addition, we understand, the current analysis also takes into account drive, commitment, and whether the individual has the mental tenacity to withstand the high-pressure Olympic field of play environment.

Participants in the selection process have included the National Team Coordinator; a coach or judge representative; and an athlete representative. The process is intended to be objective, in the sense that the individual members of the selection committee observe the athletes, discuss them, and then vote on which together would make up the best team. Interviews have suggested that the process can be unduly influenced by personal opinion, and that in years past, decisions made by the group would sometimes be changed after the group had made a collective decision.

While this can provide a tremendous opportunity for a superior athlete who had a bad day at a competition, it also means that someone has to be left behind who might deserve to go to the Olympic Games. Given the brief window of opportunity for elite competition available to most female gymnasts, as described elsewhere in this report, many gymnasts may only have one chance at the Olympics. There is a good deal of tension surrounding this system; and the subjectivity of it, while in some ways fully understandable, adds to the likelihood that an abused athlete will not report the abuse for fear of being seen as a "troublemaker" and kept off the team.

An additional issue was raised in the preceding section relating to the National Team Training Center. The person who is officially in the role of "Athlete Representative", purportedly at the NTTC national team training sessions to look out for the interests of the athletes, also serves on the Olympic team selection committee.

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⁷¹ "Little Girls in Pretty Boxes," supra, Chapter 6.







Given this clear conflict in the Athlete Representative's duties and loyalties, it is highly unlikely that any athlete under consideration for inclusion in the team will confide in the Athlete Representative, thus reducing the potential for the reporting of abuse through this avenue.





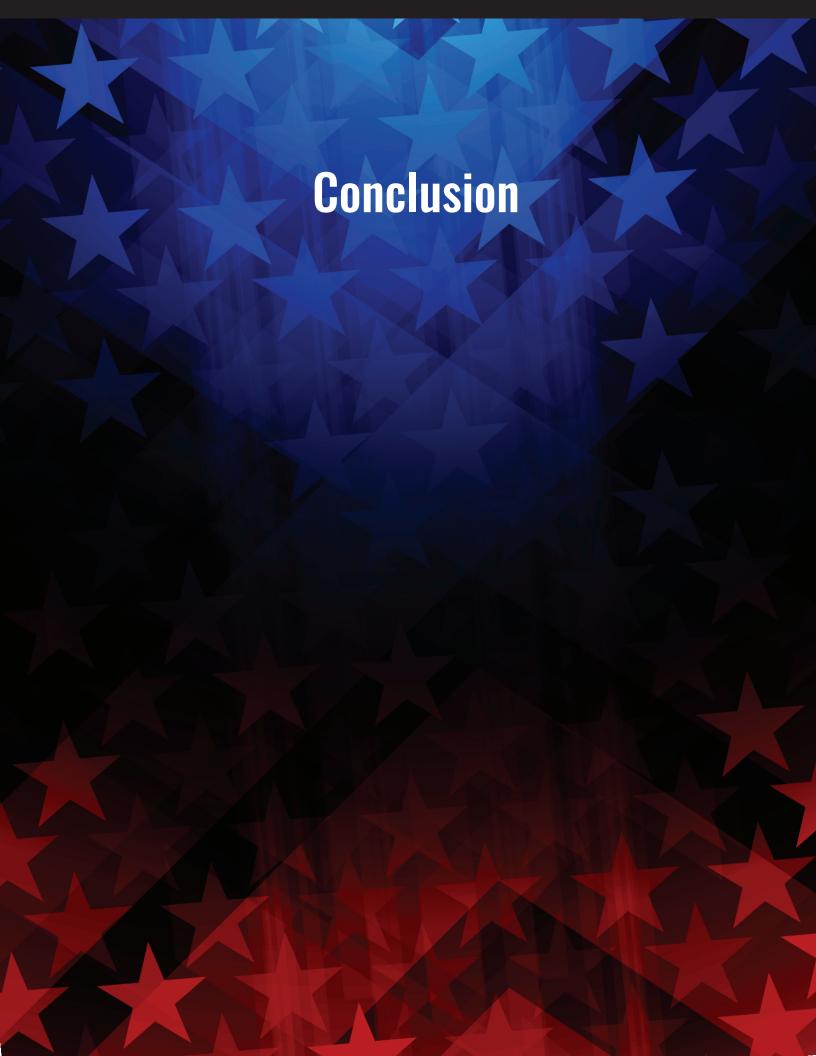


National Team Selection Process

Recommendations

There are many competing concerns regarding the general selection process, and we do not make a recommendation regarding how the team should be selected. This is something that USA Gymnastics should carefully consider with advice from experts.

However, we strongly recommend that the Athlete Representative, if she is to be charged with the duty of advocating for and representing the interests of the athletes themselves, should under no circumstances be included in the team selection process.









CONCLUSION

As indicated in the Introduction to this report, the sport of gymnastics has provided tremendous benefit to tens of thousands of young athletes throughout the U.S.A. It has the potential to turn a shy pre-teen into a physically fit, mentally disciplined, emotionally strong and confident young man or woman. But, exposed to the wrong influences in this or any other sport, a young boy's or girl's life can be devastated and his or her future dimmed.

USA Gymnastics has a proud tradition of having been an early adopter of policies and procedures to protect young athletes. In recent years, it has unfortunately fallen behind the curve in terms of effective initiatives intended to ensure athlete protection. According to published reports, hundreds of gymnasts over the last 20 years have reported abuse at the hands of coaches or other authority figures in the sport, many of whom were involved with USA Gymnastics as members or contractors; and given the understandable reticence of those who have suffered abuse to come forward, the true number of those victimized over that period of time cannot be estimated but is surely far higher.

Fortunately, there are many things that USA Gymnastics can do to protect today's and tomorrow's athletes. In doing so, the organization can also help victimized former athletes regain their faith in a system that they surely feel has let them down. It is hoped that they, too, will take solace in seeing USA Gymnastics take a firm stand against abuse by adopting the recommendations in this report.



Exhibit A

USA Gymnastics Participant Welfare Policy

Updated December, 2012

Consistent with the mission of USA Gymnastics,¹ the welfare of gymnastics participants, especially minors, is of paramount concern. When any member, participant, coach, official, volunteer or staff member is subjected to abuse, whether physical or sexual, it undermines the mission of USA Gymnastics and is inconsistent with the best interests of the sport of gymnastics and of the athletes USA Gymnastics serves.

USA Gymnastics is committed to promoting a safe environment for its members, participants, coaches, officials, volunteers and staff in all gymnastics disciplines. While there are limits to what USA Gymnastics can do, e.g., at the local level because USA Gymnastics does not own, operate or otherwise control gyms or gymnastics clubs, USA Gymnastics has adopted this policy to set forth the efforts it will undertake to promote a safe gymnastics environment, both solely and in partnership with other necessary parties, including member clubs, registered businesses, parents, athletes and the gymnastics community.

(1) <u>Definition of Abuse</u>. Abuse, including child abuse, is defined in various sources, such as state statutes, case law, sports organization and professional association codes of conduct and training manuals, corporate and business workplace documents and human rights commission materials. USA Gymnastics has not adopted any specific definition of abuse; rather, it has chosen to defer to such general sources and definitions for reference and application, depending upon the circumstances. Nonetheless, in general, the following conduct may be considered abusive:

(a) Physical Abuse.

- (i) Any physical contact with a participant that intentionally causes or is likely to cause the participant to sustain bodily harm or personal injury, including without limitation, striking, hitting, kicking, biting, shaking, shoving, forcing an athlete to train or compete when seriously injured or mandating excessive exercise as a form of punishment;
- (ii) Any physical contact with a participant that intentionally creates or is likely to create a threat of bodily harm or personal injury;
- (iii) Giving alcohol or inappropriate drugs to a participant; or
- (iv) Any violation of applicable law involving physical contact, or that is specifically designed to protect minors.

The mission of USA Gymnastics is to encourage participation and the pursuit of excellence in all aspects of gymnastics.

Physical contact that is reasonably intended to coach, teach or demonstrate a gymnastics skill or to prevent or lessen injury (e.g., spotting, catching) does <u>not</u> constitute physical abuse. Infrequent, non-intentional physical contact, particularly contact which arises out of an error or a misjudgment on the part of the gymnast, participant or coach, does not constitute physical abuse.

(b) Sexual Abuse.

- (i) Rape, incest, fondling, exhibitionism or sexual exploitation;
- (ii) Any form of sexual contact or inappropriate touching, unwanted physical contact, unwelcome advances or requests for sexual favors;
- (iii) Any form of wanton or obscene gesturing, lewd remarks or indecent exposure;
- (iv) Sexual abuse of a minor includes, without limitation:
 - Touching a minor participant for the purpose of causing the sexual arousal or gratification of either person; or
 - A minor participant touching any person, if the touching occurs at the request of or with the consent of such other person, for the sexual arousal or gratification of either person;
- (v) Neither consent of the participant to the sexual abuse or contact, mistake as to the participant's age, nor the fact that the sexual abuse or contact did not take place at or in conjunction with a gymnastics function is a defense to a complaint of sexual abuse;
- (vi) Sexual abuse also includes sexual misconduct described in the Code of Ethics, including, but not limited to:
 - Soliciting or engaging in sexual relations with a minor;
 - Engaging in any behavior that utilizes the influence of a member's position as coach, judge, official or administrator to encourage sexual relations with an athlete or participant; or
 - Engaging in sexual harassment by making unwelcome advances, requests for sexual favors or other verbal or physical conduct of a sexual nature, where such conduct creates an intimidating, hostile or offensive environment; or
- (vii) Any violation of applicable law directly or indirectly involving or related to sexual misconduct or child abuse, or that is specifically designed to protect minors.
- (2) <u>Legal Reporting Requirements</u>. USA Gymnastics will follow applicable law in reporting abusive situations to the proper authorities. If, in USA Gymnastics' reasonable and good faith judgment, reporting to the proper authorities is necessary to protect a person from the possibility of further abuse, it may make such report even if not compelled by law to do so.

- (3) Reporting Suspected Abuse. Any person who reasonably and in good faith believes a member of USA Gymnastics has abused another person, whether physical or sexual, such person may notify the USA Gymnastics National Office pursuant to Articles 9 and/or 10 of the USA Gymnastics Bylaws.
 - (a) <u>Telephone Inquiries</u>. At least two USA Gymnastics staff members, one of each gender, shall be trained to receive telephone inquiries regarding abuse. The staff members shall:
 - (i) Inform the caller that a written and signed complaint must be received for USA Gymnastics to initiate its grievance procedures against a member of USA Gymnastics pursuant to Articles 9 and/or 10 of the USA Gymnastics Bylaws and offer to provide a copy of the grievance procedures to the caller;
 - (ii) Advise the caller that USA Gymnastics may be legally obligated to report the allegations to the proper authorities even if no complaint is filed pursuant to Articles 9 and/or 10;
 - (iii) Encourage that the victim(s) seek professional help, if appropriate;
 - (iv) Prepare a written summary detailing the call and submit it to the Executive Office;
 - The Executive Office will determine, with the assistance of legal counsel if necessary, whether USA Gymnastics has a legal reporting requirement based upon the inquiry and act accordingly;
 - Written summaries will be filed and indexed by the alleged perpetrator and will become a part of any applicable misconduct / grievance file.
- (4) <u>Implementation of the Misconduct/Grievance Procedures</u>. At least two USA Gymnastics staff members, one of each gender, shall be trained in the proper implementation of the member misconduct and grievance procedures contained in the USA Gymnastics Bylaws.
 - (a) One of the trained staff members will be designated to implement the procedures for each complaint;
 - (b) The designated staff member will determine whether the accused is a member of USA Gymnastics;
 - (i) If the accused is a member of USA Gymnastics, the matter should proceed in accordance with the existing applicable policy;
 - (ii) If the accused is not a member of USA Gymnastics, the staff member should notify the complaining party of the inability of USA Gymnastics to pursue the matter internally, as a courtesy to the complaining party;

- (c) If not already completed, the Executive Office will determine, with the assistance of legal counsel if necessary, whether USA Gymnastics has a legal reporting requirement based upon the complaint and act accordingly;
- (d) The designated staff member will "shepherd" the complaint through the process set forth in the USA Gymnastics Bylaws.
- (5) <u>Confidentiality</u>. Because of legal reporting requirements, USA Gymnastics cannot guarantee confidentiality in misconduct/grievance matters. However, USA Gymnastics will treat such matters with as much confidentiality as is possible under the circumstances and with the sensitivity they deserve.
- (6) Criminal Background Checks of Individual Members. As a condition to being granted the privilege of membership in USA Gymnastics, individuals applying for professional membership must submit to a criminal background check which is consistent with USA Gymnastics' "Background Screening Policy." Individuals given a "Green Light" consistent with that policy will not be denied the privilege of membership in USA Gymnastics, provided all other criteria for that category of membership are met. Individuals given a "Red Light" consistent with that policy may be denied the privilege of membership in USA Gymnastics.

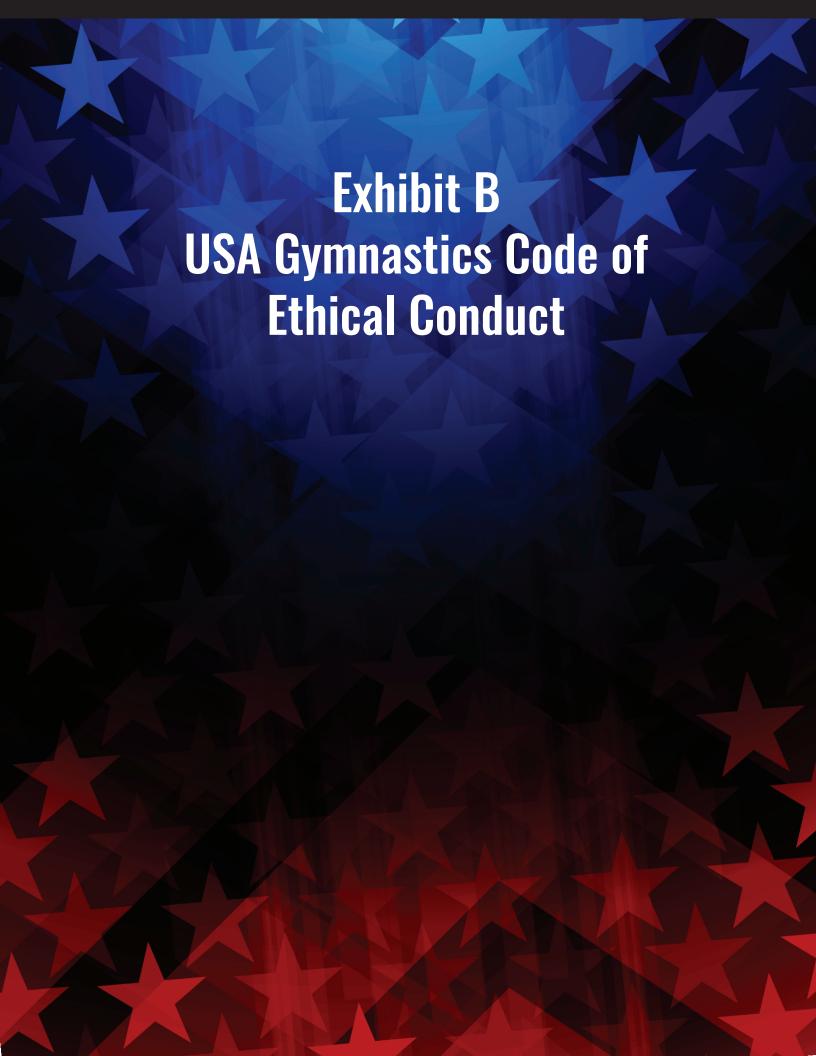
USA Gymnastics will continually monitor and review the individuals that are subject to criminal background searches, with the primary goal being to safeguard athletes and other participants with proactive measures while conforming to legal norms and industry best practices.

- (7) <u>Athlete Member Advisement</u>. Upon obtaining membership in USA Gymnastics, an enclosure will be mailed with the Athlete Membership Card advising athlete members of his/her role in maintaining the athlete's own safety and USA Gymnastics' limited role in local gymnastics clubs, gyms, events and activities.
- (8) Registered Businesses and Member Clubs. As a condition to being granted the privilege of membership in USA Gymnastics as a Registered Business or Member Club, a club/business must agree to and comply with the following requirements for the entirety of the club's/business' membership period, certification of which must be made annually:
 - (a) Have a policy consistent with USA Gymnastics' Participant Welfare Policy that affirms the club's/business' commitment to the welfare of gymnastics participants in its organization and includes, at minimum, a description of conduct that will not be tolerated, standards of behavior for its staff/volunteers that promote participant welfare, and a process for receiving and handling complaints regarding conduct that violates its policy.

- (b) Certify that no persons permanently ineligible for USA Gymnastics membership and no persons listed on a federal or state sex-offender registry are or will be associated with the club/business or its activities in any way.
- (c) Maintain current commercial general liability insurance that includes at a minimum, participant liability and participant accident medical insurances.
- (d) Employ at least one staff member who is 18 years of age or older and holds a current Professional or safety-certified Instructor membership in USA Gymnastics.
- (e) Have a mission statement consistent with USA Gymnastics' mission to encourage participation and the pursuit of excellence in all aspects of gymnastics.
- (9) Recommendations to Gymnastics Clubs/Businesses. USA Gymnastics does not operate gymnastics clubs, but rather gymnastics clubs/businesses are operated independently at the local level. USA Gymnastics respects the autonomy of local clubs/businesses to operate as they deem appropriate. Even though USA Gymnastics does not and cannot control the activities or operations of local clubs/businesses, it invites local clubs/businesses to join with USA Gymnastics in taking affirmative steps beyond those described in Section 8 above to promote a safe environment for all gymnastics participants, such as by:
 - (a) Adopting "standards of behavior" for staff and volunteers working directly with minors to foster a safe gymnastics environment and to prevent abusive situations, and by training staff and volunteers to implement such standards;
 - (b) Implementing a thorough hiring process including, for example, reference and criminal background checks;
 - (c) Encouraging parents to become as active as reasonably possible in his/her child's gymnastics activities; and
 - (d) Otherwise implementing policies and procedures to lessen the likelihood that an abusive situation could develop.
- (10) Event Sanctions. As a condition to being granted a USA Gymnastics sanction for an event, the applicant must certify that no persons permanently ineligible for USA Gymnastics membership, and no persons listed on a federal or state sex-offender registry, will be associated with the event in any capacity, including, but not limited to, volunteers and meet support personnel. Sanctioned events may only be hosted by Registered Businesses or Member Clubs.
- (11) Advertising. As a condition to being permitted by USA Gymnastics to advertise in its publications, on its web site or through other USA Gymnastics media, advertisers must certify that no persons permanently ineligible for USA Gymnastics membership are or will be associated with the advertiser's gymnastics-related activities or the position, activity, or event it intends to publicize.

- (12) Hiring/Training of USA Gymnastics Staff/Volunteers.
 - (a) USA Gymnastics staff members must submit to a criminal background check consistent with USA Gymnastics' "Background Screening Policy." Individuals not given a "Green Light" consistent with that policy prior to their employment may not be hired. Individuals not given a "Green Light" on any subsequent criminal background check may be subject to dismissal. USA Gymnastics shall also check at least two (2) references for each applicant who, if hired, would regularly work directly with minors.
 - (b) All USA Gymnastics staff members will be informed about the Participant Welfare Policy, which is included as an appendix in the *Employee Policies & Procedures Handbook*, and made aware of its importance to our members and our organization.
 - (c) The members of the USA Gymnastics Board of Directors must submit to a criminal background check consistent with the Background Screening Policy. Individuals not given a "Green Light" consistent with that policy may be subject to removal.
- (13) <u>Standards of Behavior</u>. To promote a safe gymnastics environment for USA Gymnastics' activities and events and to lessen the likelihood that an abusive situation could develop, participants must adhere to the following USA Gymnastics Standards of Behavior:
 - (a) Avoid Being Alone with a Minor. Gymnastics is a sport that lends itself to one-on-one situations between a coach and a gymnast. Avoid being alone with a child or any group of children in a private setting (e.g., locker room, bathroom, office, vehicle or residence), and avoid being alone with a child or any group of children in any place that is inappropriate to the coach-athlete relationship. When a one-on-one situation is necessary, such as private coaching lessons or conversations, conduct the activity within the view of another adult.
 - (b) <u>Physical Contact</u>. Gymnastics is a sport that creates opportunities for physical contact between a coach and a gymnast. Physical contact is acceptable when it is reasonably intended to coach, teach or demonstrate a gymnastics skill or to prevent or lessen injury (e.g., spotting, catching). However, care should be taken to ensure that such contact is not invasive of sensitive areas of the body.
 - (c) <u>Parental Monitoring</u>. Parents are encouraged to become as active as reasonably possible in monitoring the activity/event.
- (14) <u>Education of the Gymnastics Community</u>. USA Gymnastics will provide or cause to be provided education for members of the gymnastics community geared toward promoting a safe gymnastics environment as follows:
 - (a) Through a designated section of its website with the content being updated as necessary;

- (b) Through each of its magazine publications with at least one article per year;
- (c) At each National and Regional Congress through a live presentation available to Congress attendees;
- (d) Online or electronically through the safety/risk management certification or other USA Gymnastics University courses;
- (e) Through brochures and/or posters available to members and Member Clubs/Registered Businesses;
- (f) At least annually in designated athlete meetings;
- (g) At least annually to designated athletes' parents;
- (h) In its publications such as the Safety/Risk Management Handbook and the Rules and Policies.
- (15) <u>Professional Development</u>. Professional and Instructor members of USA Gymnastics should strive to increase their level of proficiency and skill by remaining current on safety, health and training developments relevant to the sport and by seeking advice and counsel of colleagues and experts whenever such consultation is in the best interests of the athlete.
- (16) Communication. USA Gymnastics will consistently communicate:
 - (a) Its mission and that physical and sexual abuse are inconsistent with its mission and the best interest of the sport of gymnastics and its participants;
 - (b) Its commitment to and work toward a safe environment for all gymnastics participants.
- (17) <u>Document Retention</u>. USA Gymnastics will permanently retain misconduct / grievance files and materials.
- (18) Policy Review. This policy shall be reviewed at least annually and updated as necessary.





USA Gymnastics Code of Ethical Conduct

I. Introduction

The mission of USA Gymnastics is to encourage participation and the pursuit of excellence in all aspects of gymnastics. USA Gymnastics grants the privilege of membership to individuals and organizations committed to that mission. USA Gymnastics may, therefore, withdraw the privilege of membership or discipline a member where USA Gymnastics determines that an individual or organization's conduct is inconsistent with the mission of USA Gymnastics or the best interest of the sport and those who participate in it.

To better serve the interests of those who participate in gymnastics, USA Gymnastics has adopted the Code which follows. This Code is not intended to establish a set of rules that will, by inclusion or exclusion, prescribe the appropriate behavior for members in every aspect of their participation in the sport. Rather, the Code offers general principles to guide the conduct, and the judicious appraisal of conduct, of all USA Gymnastics members (individuals, organizations and clubs/businesses, which are collectively referred to as "Members" and individually as a "Member") in situations that have ethical implications.

This Code cannot further ethical conduct in the sport of gymnastics; that can only come from the personal commitment of the participants in the sport to behave ethically. This Code is offered instead to guide and to affirm the commitment of all Members to safeguard the best interests of the sport by acting ethically at all times.

II. Elements of the Code

A. Participant Relationships.

Members of USA Gymnastics are charged with the responsibility for contributing to an environment that makes participation in the sport a positive and rewarding experience. To achieve that result, each professional and club/business Member has a special obligation to make decisions based on the best interest of the athlete. It is inconsistent with this obligation for any Member to:

 Fail to follow the safety guidelines established by USA Gymnastics, or otherwise knowingly subject a participant to unreasonable physical or emotional risk.

- 2. Engage in conduct that is unfair including, in particular, attempting to injure, disable or intentionally interfere with the preparation of a competitor.
- 3. Engage in conduct toward another participant in the sport that is abusive. USA Gymnastics recognizes that the process for training and motivating athletes varies with each coach and each athlete, but it is nevertheless incumbent on everyone involved in the sport to support the development and use of motivational and training methods that avoid conduct that is, or is likely to be perceived as being, abusive.
- 4. Attempt to intimidate, embarrass or improperly influence any individual responsible for judging or administering a competition.

B. Non-Discrimination.

Any USA Gymnastics activity or event should be open to any Member properly qualified under the rules of that activity or event. It is inconsistent with this obligation for any Member to:

- 1. Restrict the ability of a Member to qualify for or participate in competition because of the Member's association with a particular organization or individual or because of that Member's race, sex, creed, sexual orientation, age, national origin or mental or physical disability.
- 2. Discriminate in the provision of resources or opportunities to any Member or prospective Member on the basis of race, sex, creed, sexual orientation, age, national origin or mental or physical disability.

C. Participation.

Every Member participating in a USA Gymnastics activity or event has an obligation to participate to the best of his/her abilities. It is inconsistent with this obligation for any Member to:

- 1. Knowingly participate as a judge, coach, athlete or administrator in any activity or event where that judge, coach, athlete or administrator is inadequately prepared, unable to participate or fails to participate to the best of his or her ability.
- 2. Engage in behavior that is so disorderly or inappropriate as to interfere with the orderly conduct of the activity or other Members' participation in, or enjoyment of, the activity or event.

D. Commitment to Integrity.

A Member of USA Gymnastics has a responsibility to uphold the integrity of the sport of gymnastics and the rules and regulations that govern it, and to act honestly, openly, fairly and competently. It is inconsistent with this obligation for any Member to:

- 1. Knowingly misrepresent the policies or actions of USA Gymnastics or its authorized representatives.
- 2. Act on behalf of USA Gymnastics or a Member without appropriate authorization.
- 3. Alter, falsify, or omit any information, record or document to intentionally make a false or exaggerated claim or statement or to mislead.
- 4. Fail to resort in the first instance to the established procedures for challenging a competitive result, contesting a team selection decision, complaining about the conduct of another Member, or attempting to alter or reverse a policy adopted by USA Gymnastics.
- 5. Breach the duty to maintain appropriately established confidences of USA Gymnastics or any Member.
- 6. Knowingly make false certifications on membership or event sanction applications or otherwise regarding the involvement of any person permanently ineligible for USA Gymnastics membership, or any person who is listed on a federal or state sex-offender registry, with regard to club/business, event, or advertised activities.
- 7. Engage in business practices directed toward another Member that are determined by a court, or other similar adjudicatory body, to be unethical, illegal or a breach of contract.
- 8. Incur expenses in furtherance of USA Gymnastics' business that are unreasonable, unnecessary, or unsubstantiated.
- 9. Fail to avoid both actual and perceived conflicts of interest in the conduct of business.
- 10. Participate in the deliberation or decision-making process about any issue for which the Member has a direct financial interest, unless full disclosure of that interest and meaningful consent is obtained prior to participation.

E. Communication.

Members of USA Gymnastics have a duty to communicate honestly and openly with USA Gymnastics and Members. It is inconsistent with this obligation for any Member to:

- 1. Misrepresent competitive achievements, professional qualifications, education, experience, eligibility, criminal record or affiliations.
- 2. Knowingly disseminate false or misleading information about another Member.
- 3. Misrepresent actions taken or not taken in an effort to show compliance with USA Gymnastics' policies or procedures.
- 4. Withhold from athletes information or resources likely to enhance the athletes' enjoyment of the sport or reduce their risk of injury or illness.
- 5. Fail to consult with or inform fully the athlete or the athlete's parents about opportunities made available to the athlete involving competitions, commercial activities or recognition.
- 6. Misrepresent the nature or extent of an injury in order to decline an invitation to participate in or withdraw from a competition, training camp or other similar activity.
- 7. Misrepresent the nature or extent of an injury in order to participate in (or cause an athlete to participate in) a competition, training camp or other similar activity when such participation is inconsistent with the appropriate medical response to the injury.

This section applies to all forms of communication, including social media.

F. Alcohol and Drug Abuse.

Members of USA Gymnastics must ensure that the sport is conducted in an environment free of drug or alcohol abuse. It is inconsistent with this obligation for any Member to:

- 1. Use or provide to a third party any drug proscribed by applicable federal, state or municipal law.
- 2. Assist or condone any competing athlete's use of a drug banned by the International Olympic Committee, United States Olympic Committee, Federation Internationale de Gymnastique, World Anti-Doping Agency, United

States Anti-Doping Agency, USA Gymnastics, or National Collegiate Athletic Association, or, in the case of athletes, to use such drugs or refuse to submit to properly conducted drug tests administered by any of those organizations.

3. Provide alcohol to, or condone the use of alcohol by, minors; abuse alcohol in the presence of athletes or at USA Gymnastics' activities; or consume alcoholic beverages while a minor.

G. Criminal Conduct.

Members of USA Gymnastics are expected to comply with all applicable criminal codes. This obligation is violated by any Member who:

- 1. Has been listed on any State or Federal sexual offender list or registry.
- 2. Has been declared a sex offender in any applicable State or Federal jurisdiction.
- 3. Has been convicted of or has entered a plea of guilty or no contest to a criminal charge or indictment directly or indirectly involving or relating to sexual misconduct, child abuse, or conduct that is a violation of a law or regulation specifically designed to protect minors.

Depending on the nature of the crime, this obligation may be violated by any Member who has been convicted of or has entered a plea of guilty or no contest to any felony charge or indictment involving conduct other than that specifically described above.

H. Sexual Misconduct.

Members of USA Gymnastics are expected to promote a safe environment for participants, coaches, officials, volunteers and staff in all gymnastics disciplines, which includes an environment free from sexual misconduct. It is inconsistent with this obligation for any Member to:

- 1. Solicit or engage in sexual relations with any minor.
- 2. Engage in any behavior that utilizes the influence of a professional Member's position as coach, judge, official or administrator to encourage sexual relations with an athlete or participant.
- 3. Engage in sexual harassment by making unwelcome advances, requests for sexual favors or other verbal or physical conduct of a sexual nature where such conduct creates an intimidating, hostile or offensive environment.

I. Sexual Relationships.

Professional Members of USA Gymnastics must protect the integrity of the sport and the interests of the athletes they serve by avoiding sexual relationships with athletes except where the capacity and quality of the athlete's consent to enter that relationship is beyond question.

III. Enforcement of Code

Compliance with this Code depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peers, and, when necessary, upon enforcement through disciplinary action.

Any Member ('Complainant') who believes that another Member of USA Gymnastics has failed to meet such Member's obligations under this Code is, under all but the most egregious circumstances, encouraged to first address that concern directly to that Member. If that action does not result in a satisfactory resolution, the Complainant may file a written complaint with the President, program director or other appropriate staff member of USA Gymnastics. That complaint must be signed and state specifically the nature of the alleged misconduct.

Upon review and consideration of the complaint, which may include written notice to both parties and an opportunity for response, and, where appropriate, additional discussions with the parties; the President or his/her designee may:

- 1. Determine that the complaint does not merit further action, or
- 2. Refer the complaint, as appropriate, to the state or regional chairs/committees or affiliated organization.

If the complaint has not been disposed of as specified in 1 or 2 above, then, after providing written notice to both parties and an opportunity for response, and, where appropriate, additional discussions with the parties, the President or his/her designee may:

- Counsel the Member who is the subject of the complaint and record both the complaint and the nature of the counseling in the Member's permanent record, or
- 2. Impose an appropriate sanction or an appropriate relief, or
- 3. Process the complaint under Article 9 and/or 10 of USA Gymnastics' Bylaws.

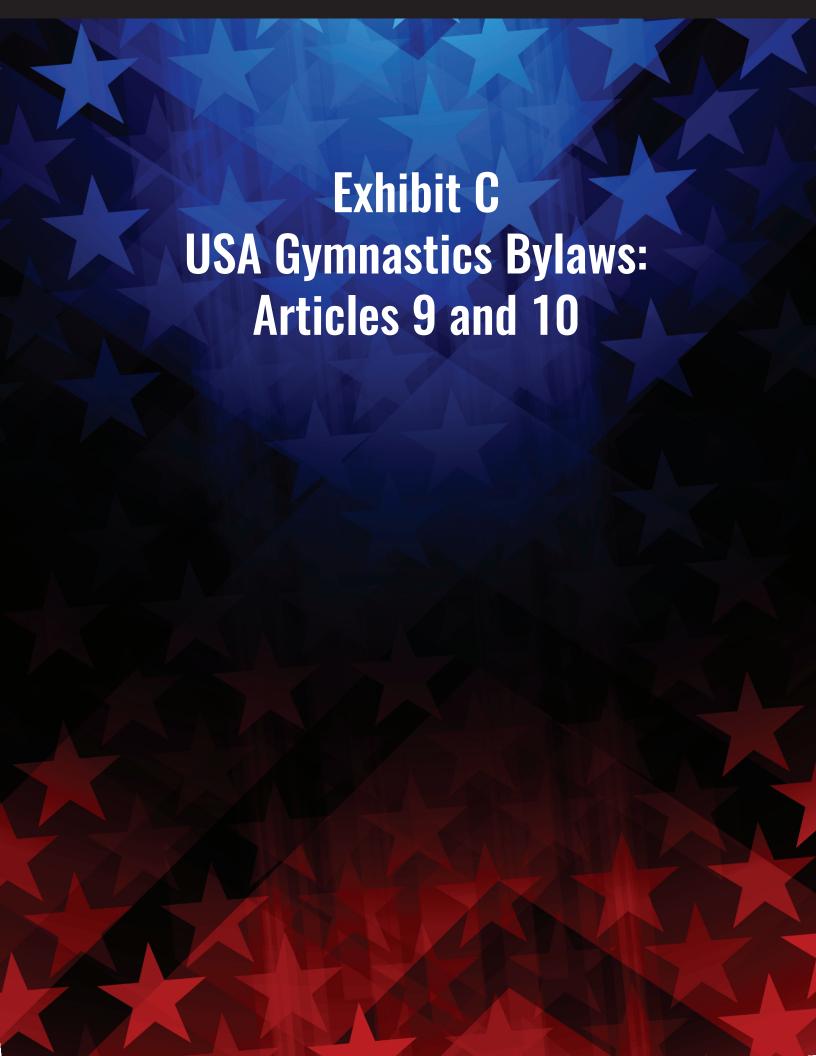
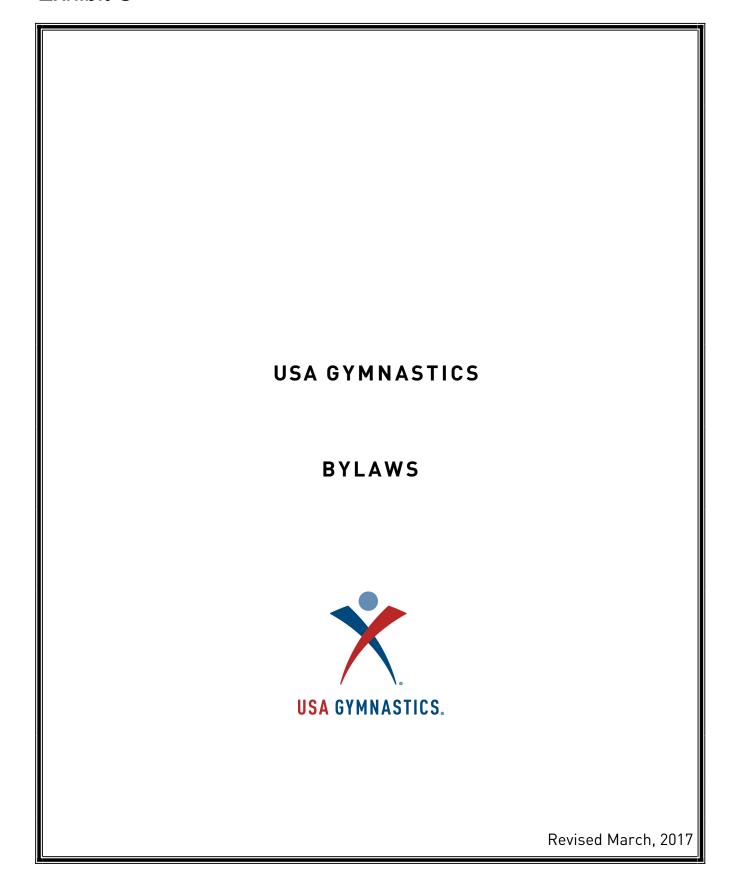


Exhibit C



ARTICLE 9 MEMBER MISCONDUCT

The U.S. Center for SafeSport ("Center") has been established by the USOC and is charged with the responsibility of monitoring and enforcing compliance with the U.S. Olympic and Paralympic SafeSport Code ("SafeSport Code"). The provisions of this Article and of Article 10 of these Bylaws are subject to matters within the jurisdiction of the Center. With respect to such matters, discipline will be imposed in accordance with the adjudication and determination by the Center under the provisions of the SafeSport Code.

- 9.1 **Misconduct.** In the event a member is alleged to have engaged in any of the following conduct ("Misconduct"), the member may be disciplined:
 - (a) Violation of these Bylaws or the rules, regulations or policies of the Corporation;
 - (b) Causing another to violate these Bylaws or the rules, regulations or policies of the Corporation; or
 - (c) Engaged in conduct which is detrimental to the Corporation or which is inconsistent with the best interests of the sport of gymnastics or of the athletes the Corporation serves; or
 - (d) A Special Category of Misconduct enumerated below or any other sexual misconduct described in the Corporation's policies or the Center's SafeSport Code.
 - (e) Disposition of Misconduct complaints:
 - (i) Discipline may be imposed in accordance with the procedures outlined in this Article 9 only if the Misconduct is one of the Special Categories of Misconduct enumerated in 9.2 below.
 - (ii) The U.S Center for SafeSport has exclusive authority and jurisdiction to investigate and manage hearings involving complaints of sexual Misconduct and certain other complaints that are related to allegations involving sexual Misconduct as detailed in 9.3 below.
 - (iii) All other forms of Misconduct will be processed under Article 10 of these Bylaws.
 - (f) For the purposes of Articles 9 and 10, a "Member" is defined as a current member of the Corporation, or, any individual who was a member of the Corporation at the time of any alleged Misconduct or possible violation of the SafeSport Code.

9.2 Special Categories of Misconduct.

- (a) If the Corporation becomes aware that any individual member:
 - (i) Is listed on any State or Federal sexual offender list or registry;

- (ii) Has been declared a sex offender in any applicable State or Federal jurisdiction; or
- (iii) Has been convicted of or has entered a plea of guilty or no contest to a criminal charge or indictment issued by an applicable City, County, State or Federal jurisdiction, and such charge or indictment directly or indirectly involved or related to child abuse or conduct that is a violation of any law or regulation that is specifically designed to protect minors;

("Special Categories of Misconduct"), the President may, without conducting any additional investigation, rely upon such fact, finding or determination and may promptly notify the member that:

- (1) The Corporation intends to terminate the individual's membership or impose any other discipline authorized in Article 10 by a specified date; and
- (2) The individual may request a hearing prior to the termination or other discipline becoming effective.
- (b) The hearing, if requested, shall be:
 - (i) A telephonic hearing;
 - (ii) Conducted by the President;
 - (iii) Implemented on the most expedited basis possible; and
 - (iv) Strictly limited to the issue of whether the individual falls into one of the Special Categories of Misconduct.
- (c) The decision of the President made pursuant to this Section shall be final and binding.

9.3 U.S. Center for Safe Sport

The Corporation shall report and refer all allegations of sexual misconduct to the Center, and all such matters will be within the Center's exclusive jurisdiction. The Center shall investigate such allegations or reports, issue any interim suspension or other measures pending the conclusion of the investigation and any hearing(s), make recommendations of sanctions or disciplinary action as a result of such investigation, and fully adjudicate such matters. Members have an obligation to promptly report any possible violations pertaining to sexual misconduct:

- (a) Directly to the Center, or
- (b) Directly to USA Gymnastics, who will in turn forward the information to the Center.

Reporting to the Center and/or USA Gymnastics DOES NOT satisfy any legal reporting requirements under state or federal law. If the suspected conduct may also be criminal, persons are required to report to law enforcement. For state-by-state reporting requirements, see www.childwelfare.gov.

9.4 Exclusive Remedy. Any alleged Misconduct by a member that is processed under the terms of Article 9 of these Bylaws may not also be the subject of a complaint under the terms of Article 10 of these Bylaws, unless the Ethics, Grievance and Safe Sport Committee provides its prior approval. Any alleged Misconduct by a member that is processed under the U.S. Center for SafeSport may not also be the subject of a complaint under the terms of Article 10 of these Bylaws.

ARTICLE 10 DISCIPLINARY PROCEEDINGS AND GRIEVANCES

- 10.1 **Designation of Complaints.** The following kinds of grievances may be filed by the Corporation or with the Corporation under this Article (a "Complaint"):
 - (a) Administrative. An "Administrative Complaint" is one pertaining to any matter within the cognizance of the Corporation, including, but not limited to, any alleged violation of or grievance concerning: (i) any of the Corporation's rules, regulations or policies; or (ii) any provision of the Certificate of Formation or these Bylaws.
 - (b) Opportunity to Participate. An "Opportunity to Participate Complaint" is one pertaining to any alleged denial, or alleged threat to deny, any member, who is an athlete, coach, trainer, manager, administrator or official, the opportunity to compete or participate in a Corporation sanctioned competition or a competition protected by the provisions of the Sports Act or the bylaws of the USOC; or
 - (c) Misconduct. A "Misconduct Complaint" is one pertaining to Misconduct other than those within the exclusive authority of the U.S. Center for Safe Sport or of the Special Categories of Misconduct described in Article 9.
 - (i) The U.S. Center for Safe Sport will have discretionary authority and jurisdiction to investigate and manage hearings involving certain Proactive Policies and Other SafeSport Misconduct (as such terms are defined in the U.S. Olympic SafeSport Code and/or USA Gymnastics' policies). The Corporation may, in its discretion, request that the Center accept jurisdiction over other matters in accordance with such SafeSport Code.
 - (ii) Misconduct Complaints that are not referred to the Center will be processed in accordance with the procedures in this Article 10.
- 10.2 **Filing a Complaint.** Any current member, current or former athlete member, or the Corporation (the "Complainant") who believes himself/herself/itself to be aggrieved by any action of the Corporation or by one of its members, may file a Complaint with the Corporation. If the Complainant is a minor, the Complaint may be initiated by such minor's parent or legal guardian. To be considered for resolution through these procedures, the Complaint must:
 - (a) Be submitted in writing to the President at the Corporation's principal place of business;
 - (b) Be signed by the Complainant; and
 - (c) Include a concise statement of the nature of the Complaint, the individual and/or organization believed to be responsible for the acts or omissions described in the Complaint and the relief requested.

A complaint that is not filed in accordance with this Section shall render the filing ineffective.

- 10.3 **Filing Fee.** An Administrative Complaint which is filed by a Complainant other than an athlete or the Corporation shall be accompanied with a \$250 filing fee.
- 10.4 **Time Bar.** Unless the Complaint is filed by the Corporation or involves allegations which are of the type described in one of the Special Categories of Misconduct, a Complaint must be filed within one (1) year of the occurrence of the alleged incident, violation, grievance, denial or threat to deny. In the event that the Complainant was a minor at the time of the occurrence of the alleged incident, violation, grievance, denial or threat to deny, the Complaint must be filed within one (1) year following the minor's eighteenth (18th) birthday.

10.5 Processing the Complaint.

- Upon receipt of a Complaint, the President will determine (i) whether the (a) Complaint complies with the requirements specified in Section 10.02 and 10.03; (ii) whether the Complaint is time barred pursuant to Section 10.04; (iii) whether the underlying facts and circumstances referenced in the Complaint give rise to an issue that is appropriate for resolution under these procedures; (iv) whether the Complainant has standing to file the Complaint; (v) whether the Corporation has jurisdiction over the matter; and (vi) whether the Complaint involves matters which the Corporation does not have the authority or ability to remedy. In making this determination, the President may consult with and rely upon an advisory panel selected by the President which consists of one or more Officers, Directors or attorneys ("Advisory Panel"). If the President determines that the Complaint does not satisfy the criteria specified herein, the President shall so advise the Complainant, and the Complaint shall be dismissed, and no further processing of the Complaint shall be required pursuant to this Article.
- (b) If the Complaint has not been dismissed, the President shall appoint one member, employee (other than the President) or agent of the Corporation to investigate the Complaint (the "Investigator"). The Investigator may not, however, be an individual who is directly or indirectly involved in an occurrence that is the subject of the Complaint.
- (c) The Corporation shall send to the Complainant a notice acknowledging the receipt of the Complaint (the "Notice to Complainant"). The Notice to Complainant shall include:
 - (i) The name and contact information of the Investigator;
 - (ii) The date by which it is anticipated that the investigation will be completed; and

- (iii) A copy of these procedures.
- (d) The Corporation shall send to any individual and organization whose conduct is the subject of the Complaint (an "Adverse Party") a notice of the filing of the Complaint and a copy of the Complaint (the "Notice to Adverse Party"). No Notice to Adverse Party need be sent when the only Adverse Party is the Corporation. The Notice to Adverse Party shall include:
 - (i) An invitation to respond in writing to the Complaint;
 - (ii) The name and contact information of the Investigator;
 - (iii) The date by which it is anticipated that the investigation will be completed; and
 - (iv) A copy of these procedures.
- (e) If the Complaint is a Misconduct Complaint, the Notice to Adverse Party shall also allow the Adverse Party an opportunity to request that the President resolve the Complaint upon the conclusion of the investigation rather than using a Hearing Panel. If the President chooses to grant that request and thereafter finds that the Adverse Party has engaged in Misconduct, the Corporation may discipline the Adverse Party in any manner consistent with the disciplinary provisions set forth in this Article without using a Hearing Panel. In any instance where it appears that the Notice to Adverse Party was received by or was refused by an Adverse Party, or despite the best efforts of the Corporation, could not be delivered to an Adverse Party, or an Adverse Party fails or refuses to notify the Corporation as to which method the Adverse Party would prefer to use to resolve the allegations, the President may decide which of the two methods to employ.
- **Decisions Made at Competitions.** If the incident which is the subject of the 10.6 Complaint occurs at an event or competition sanctioned by the Corporation, and the subject matter of the Complaint could have been the subject of protest procedures described in any applicable governing rules and policies, then those protest procedures must be exhausted prior to the filing of a Complaint. The failure to exhaust those protest procedures precludes the processing of a Complaint pursuant to this Article. Furthermore, the final decision of an official during a competition regarding a field of play decision (a matter set forth in the rules of the competition to be within the discretion of the official) shall not be reviewable through these procedures for, or the subject of, an Administrative Complaint or an Opportunity to Participate Complaint unless the decision is: (i) outside the authority of the official to make, or (ii) the product of fraud, corruption, partiality or other misconduct of the official. For purposes of this Section, the term "official" shall include any judge or other individual with discretion to make field of play decisions.

- 10.7 Complaints Involving an Opportunity to Participate in a Competition. With respect to an Opportunity to Participate Complaint, the Complainant shall include with the Complaint a list of all other individuals, together with their contact information, that may be adversely affected by a decision rendered upon the Complaint. The Hearing Panel shall determine which additional individuals should receive notice of the Complaint and shall provide appropriate notice to these individuals. Any individual so notified then shall have the right to participate in the proceeding as a party. If an individual is notified of the Complaint, then that individual shall be bound by the decision of the Hearing Panel even though the individual chose not to participate as a party.
- 10.8 **Investigation of the Complaint.** The investigation of the Complaint shall include a collection of relevant documents and interviews (or attempted interviews) with the Complainant, any Adverse Party and other persons having information related directly to the subject matter of the Complaint.
- 10.9 **Disposition of the Complaint.** The Investigator shall prepare for the President a written summary of the investigation. If requested by the President, the Investigator shall also provide a recommendation as to the appropriate disposition of the Complaint. Without being limited or bound by any such recommendation, the President may then:
 - (a) After consulting with any Advisory Panel established by the President, inform the parties that upon the basis of the investigation, the President has concluded that the Complaint is devoid of merit or that the underlying facts and circumstances do not give rise to an issue that is appropriate for resolution under these procedures, and the Complaint shall be dismissed, and no further processing of the Complaint shall be required pursuant to this Article.
 - (b) Attempt to mediate the dispute to the satisfaction of the parties. If mediation is successful, the agreed upon resolution must be recorded by the President in a form which includes the written acknowledgment by the parties of that resolution;
 - (c) Inform the Complainant that he/she/it may, at the Complainant's option, pursue the Complaint through a Hearing Panel under the procedures set forth herein; or
 - (d) Inform the Complainant that the Corporation will pursue the matter against the Adverse Party as a Misconduct Complaint under the procedures set forth herein.
- 10.10 **Hearing Panel.** If a hearing is requested, the President will report that fact to the chair of the Ethics, Grievance and Safe Sport Committee. The chair of the Ethics, Grievance and Safe Sport Committee will then appoint at least three (3)

disinterested individuals to serve as the hearing panel that will hear the matter (the "Hearing Panel"). These appointments shall be subject to the following:

- (a) The chair of the Ethics, Grievance and Safe Sport Committee may appoint himself/herself or any other member of the Ethics, Grievance and Safe Sport Committee to the Hearing Panel.
- (b) The appointment of the Hearing Panel will include the designation of a chair.
- (c) The Hearing Panel shall have at least twenty percent (20%) athlete representation. All athlete members of the Hearing Panel must meet the standards specified for an athlete representative to a board of directors of a National Governing Body or a "Designated Committee," as that term is defined in the bylaws of the USOC.
- (d) The chair of the Ethics, Grievance and Safe Sport Committee is responsible for confirming the availability of each appointee to serve on the Hearing Panel.
- 10.11 **Administration.** The Ethics, Grievance and Safe Sport Committee shall be responsible to ensure that all Complaints proceeding to a Hearing Panel are heard in a timely, fair and impartial manner and may promulgate procedures in addition to those set forth in these Bylaws for the effective administration of Complaints filed with the Corporation.

10.12 Conduct of the Hearing.

- (a) The chair of the Hearing Panel will select the time and place for the hearing so as to have the hearing occur at the earliest convenient date. The chair may choose to conduct the hearing by conference call or other similar electronic means.
- (b) The chair will communicate the information about the hearing schedule along with the identity of the other members of the Hearing Panel to the parties and to the President. Prior to the hearing, the President will provide to the Hearing Panel copies of the Complaint, any written response previously submitted by an Adverse Party, and, where applicable, documents collected by the Investigator and the Investigator's summary. The Hearing Panel will not receive (and neither party may introduce or mention) any Investigator's recommendation or any resolution of the dispute proposed by the President or by any party during any mediation or any effort to amicably resolve the matter.
 - (c) Not less than fifteen (15) days prior to the hearing, the chair of the Hearing Panel shall cause to be sent to the parties a written copy of the procedures to be followed at the hearing. Those procedures shall include the opportunity for each party to be represented by counsel, to present and examine oral or written evidence, to cross-examine witnesses

and to present such factual or legal claims and argument as desired, unless such exhibits pertain solely to possible impeachment matters. The Hearing Panel shall set such timelines and other rules regarding the proceeding and the conduct of the hearing as it deems necessary. Either upon its own initiative or at the request of a party, the Hearing Panel may direct the production of documents and other information. Further, the Hearing Panel may require that the parties (i) identify any witnesses the parties intend to call at the hearing and (ii) exchange copies of all exhibits the parties intend to submit at the hearing. The Hearing Panel shall set due dates for the exchange of such information. The Hearing Panel is authorized to resolve any dispute concerning the exchange of information. No party and no one acting on behalf of any party shall communicate ex parte with a Hearing Panel member. The hearing shall be informal, except that testimony shall be taken under oath. Members of the Hearing Panel shall have the right to question witnesses or the parties to the proceeding at any time. Any party may have a record made of the hearing. A court reporter may be present at the hearing at the request of a party. The court reporter shall be paid for by the party requesting the court reporter, or if mutually agreed, the cost may be equally divided. Any transcript shall be paid for by the party requesting the transcript.

- (d) All procedural and evidentiary decisions shall be made by the Hearing Panel. The rules of evidence shall not be strictly enforced; instead, the rules of evidence generally accepted in administrative proceedings shall be applicable. The Hearing Panel shall determine the admissibility, relevance and materiality of the evidence offered and may exclude evidence deemed by the Hearing Panel to be inadmissible, cumulative or irrelevant.
- (e) If the Complaint is not dismissed, decisions about the merits of the Complaint and the form of any sanction shall be made by majority vote of the Hearing Panel. The Hearing Panel shall report its decision on the merits in the form of written findings of fact and conclusions. The decision shall be sent to the parties and to the President. Subject only to any right to arbitration as is specified in Section 10.16, the decision of the Hearing Panel shall be final and binding upon all parties.

10.13 **Discipline.** The Hearing Panel may impose any of the following discipline:

- (a) **Reprimand.** A communication, either public or private, of the Corporation's decision to impose a reprimand regarding the Complaint. Any reprimand may be combined with probation or suspension.
 - (b) **Probation.** A ruling that, for a specified time, the subject's continued participation in the Corporation's activities, sanctioned competitions or membership programs is conditioned upon the

- satisfaction of certain conditions. These conditions shall be described specifically, as shall the consequences of failing to meet them. The Hearing Panel may order thatnotice of probation be given to appropriate authorities, such as meet directors.
- (c) **Suspension or Expulsion.** A ruling that (i) either permanently or for a specified period of time, the subject is prohibited from participating in sanctioned competitions or other of the Corporation's activities, (ii) the subject is expelled from membership in the Corporation, or (iii) in the case where the subject has applied for membership, membership is not allowed and the subject is placed on the permanently ineligible list. The Hearing Panel may limit the effect of a suspension to certain activities or competitions, and may establish conditions that, if satisfied, will result in the lifting of a suspension. The Hearing Panel may order that notice of suspension, expulsion, or permanent ineligibility be given to appropriate authorities, such as meet directors.
- (d) **Other.** The Hearing Panel may order such other relief as it deems appropriate (e.g., letter of apology or restitution, including, for example, the payment for damaging equipment or the recovery of any financial benefit improperly derived by an Adverse Party).
- (e) **Discipline Imposed by the Center**. With respect to all matters which are investigated and adjudicated by the Center, the Corporation shall enforce any such sanction imposed by the Center.
- 10.14 **Expedited Procedure.** With respect to an Opportunity to Participate Complaint, every effort will be made to expedite the proceedings, including, but not limited to, modifications made by the President or by the chair of the Hearing Panel to the procedures set forth above in order to resolve the Complaint prior to the start of the event.
- 10.15 **General.** All notices, reports and decisions under this Article shall be made in writing and delivered in person by registered or certified mail, or other form of delivery creating a record of receipt. Participation in these procedures shall be deemed to constitute agreement to be bound by the provisions of this Article. If, in the course of an investigation or hearing conducted pursuant to this Article, the Corporation discovers that an Adverse Party has engaged in one of the Special Categories of Misconduct specified in Article 9, the resolution of the Adverse Party's status shall be resolved under Article 9, and the proceedings under this Article 10 may be promptly terminated by the President or by the Hearing Panel.

10.16 Publication of Permanently Ineligible Members.

(a) Where a final decision has been rendered in a matter where the discipline

imposed is permanent expulsion, or permanent ineligibility for membership the Corporation shall publish the following information in one or more of its publications and on the Corporation's website: (a) the name of the individual; (b) the state of residence of the individual where the violation occurred and/or where the individual resides at the time the discipline is imposed; and (c) with respect to decisions rendered after the adoption of this Section 10.16, which of the Corporation's Bylaws, rules, regulations or policies was violated.

- (b) In matters that are adjudicated by the Center that result in permanent ineligibility for membership and are published on the Center's searchable database, the Corporation will also publish and add information to the Corporation's list of Permanently Ineligible Members as detailed above.
- 10.17 **Arbitration.** The Corporation agrees to submit to binding arbitration conducted under the commercial rules of the American Arbitration Association, any controversy involving (i) an Opportunity to Participate Complaint or (ii) its recognition as a National Governing Body, as is provided in the Sports Act.