

Appendix A



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

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

Effective as of March 3, 2017

I. APPLICATION AND STANDARDS

A. Application

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

B. Authority

1. Exclusive authority

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

a. No statute of limitations

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

b. Limit—individuals and non-employment matters

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

audit LAO, NGB or USOC organizational practices.

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

2. Discretionary authority

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

C. Rules

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

D. Standard of proof

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

II. REPORTING, CONFIDENTIALITY AND PRIVACY

A. Reporting

1. Anyone may report

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

2. Mandatory reporters

a. Covered Adults

i. Sexual misconduct

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

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

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

ii. Proactive policies

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

b. No assessment of credibility or validity

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

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

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

c. Initial disclosure to LAO, NGB or the USOC

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

d. Identity of Third-party Reporter and Reporting Party

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

3. Ongoing obligation

- a. The obligation to report is an ongoing one and is not satisfied simply by making an initial report. The obligation includes reporting, on a timely basis, all information about which a Covered Adult becomes aware.
- b. If a Covered Adult learns additional information, including information regarding the nature of an incident, the identity of witnesses, statements regarding the incident (including statements by the Reporting Party, Responding Party or a Third-party Reporter), or the existence of evidentiary material (including any documents, electronic communications, emails, text messages, medical reports, photographs, audio or video recordings, or

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

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

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

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

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

5. No statute of limitations

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

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

6. Anonymous reports

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

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

B. Confidentiality and privacy

1. Confidentiality for a Reporting Party

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

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

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

2. Reporting Party request for confidentiality

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

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

3. Privacy

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

4. Parental notification

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

III. RESOLUTION PROCEDURES

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

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

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

A. Participation

1. Advisors

a. Right to an advisor

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

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

b. Rules

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

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

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

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

2. Participation of Reporting Party and Responding Party

a. Opportunity to provide evidence

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

b. Cooperation and adverse inferences

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

c. Witnesses

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

B. Preliminary inquiry

1. Initiating proceedings

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

2. Interim measures

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

C. Informal resolution

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

D. Formal resolution—full investigation

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

1. Steps

The investigator(s) may take the following steps:

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

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

2. Closing the investigation

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

3. Investigative report

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

4. The Director of Investigation's Decision

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

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

5. Notice of Director's Decision

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

a. Actual notice

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

b. Constructive notice

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

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

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

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

6. Options

a. Reporting Party

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

b. Responding Party

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

c. Interim measures and sanctions remain in effect pending arbitration

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

7. Arbitration

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

8. Reopening a case

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

IV. MISCONDUCT RELATED TO THE OFFICE'S PROCEEDINGS

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

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

A. Abuse of process

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

B. Failure to report

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

C. Intentionally making a false report

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

V. INTERIM MEASURES

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

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

A. Notice

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

B. Rules

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

C. Scope

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

D. Measures

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

VI. SANCTIONING GUIDELINES

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

A. Possible sanctions

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

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

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

B. Considerations

Factors relevant to determining appropriate sanctions include, without limitation:

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

C. Reciprocity

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

VII. RELATED PROCEEDINGS

A. Effect of criminal or civil proceedings

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

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

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

B. Effect of criminal conviction

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

VIII. USE OF MATERIALS

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