

Noteworthy Revisions 2024 SafeSport Code for the U.S. Olympic and Paralympic Movement

The U.S. Center for SafeSport (the Center) drafted revisions to the SafeSport Code for the U.S. Olympic and Paralympic Movement (the Code). Below is an overview of the noteworthy revisions and reasoning behind such. The 2024 Code will go into effect on July 1, 2024.

Topic: Membership and Employment Decisions.

Changes: Added language to Section V.D., to clarify that the USOPC, NGBs, and LAOs may make both membership and employment decisions on matters over which the Center has exercised either exclusive or discretionary jurisdiction. Pg. 3

Rationale: These changes clarify what actions the USOPC, NGBs, and LAOs may take on matters over which the Center has exercised either exclusive or discretionary jurisdiction. This provision does not waive or limit the Center’s jurisdiction as set forth in 36 USC § 220541 and the Code. Note: The USOPC, NGBs, and LAOs—and not the Center—are responsible for resolving any complaints, appeals, or challenges made to the above-mentioned USOPC, NGB, and LAO decisions pursuant to their own policies and procedures and the Ted Stevens Act.

Topic: Penalties for In Competition or Field of Play Conduct.

Changes: Added language to Section V.D. authorizing the USOPC, NGBs, and LAOs to impose penalties for in competition or field of play conduct covered by the sport’s competition rules and regulations (e.g., an automatic 3-game suspension, a red card, or other ejection from competition, etc.). If such a penalty is imposed on a matter in which the Center has exercised jurisdiction, the USOPC, NGB, or LAO must inform the Center of such imposition within 72 hours. This provision does not modify an Adult Participant’s obligation to immediately report actual or suspected Sexual Misconduct or Child Abuse to the Center and/or appropriate law enforcement entities. Pg. 3.

Rationale: Recognizing that sport competition rules and regulations related to in competition or field of play conduct may authorize and/or require a penalty, up to and including a suspension, this modification clarifies that such penalties may be implemented immediately even if the alleged conduct falls within the Center’s exclusive jurisdiction.

Topic: Power Imbalance.

Changes: Expanded the definition of Power Imbalance to include relationships outside of the coach-Athlete relationship in which the Participant has authority or control over another person, is in a position to confer, grant, or deny a benefit or advancement to the person, or is responsible for the physical or psychological well-being of the person. Also added the concept of an implied or perceived authority or control over another as a relevant factor to consider when determining whether a Power Imbalance exists. Pg. 9.

Rationale: These changes were made to acknowledge that the concept of a Power Imbalance can vary greatly from one situation to another and may often exist outside of the traditional coach-Athlete relationship. These changes also acknowledge the concept of a perceived Power Imbalance and its use in the context of sport by abusers to engage in various forms of misconduct, even in situations in which there is no actual supervisory, evaluative, or other authority over the person.

Topic: Sexual Harassment.

Changes: Reworded the definition drawing on concepts and language from Title VII, EEOC guidance, and various state law, including Colorado's Protecting Opportunities and Workers' Rights (POWR) Act. Changes included eliminating that the harassment be "severe or pervasive" and establishing a new definition, better detailing the objective and subjective components of the provision for purposes of a hostile environment, and adding additional factors to the hostile environment analysis. Pgs. 13-14.

Rationale: Expands the scope of the Sexual Harassment provision, including expanding the definition of a "hostile environment" to include a Claimant's subjective perception, even if the Claimant appears to have tolerated the Respondent's behavior.

Topic: Inappropriate Physical Contact.

Changes: Removed the requirement that the Claimant under this provision also be a Participant under the Code. Added an additional subsection to address nonconsensual Inappropriate Physical Contact by a Minor. Pgs. 21-22.

Rationale: The nature of this Prohibited Conduct is still relevant to a Participant's fitness to participate in sport even if the person who experienced the misconduct is not technically a Participant in the Movement. This change expands the scope of the violation to focus on the conduct itself rather than the status of the person experiencing the misconduct.

Topic: Failure to Report (Section IX.G.1.) & Reporting (Section X.).

Changes: Moved much of the content from Failure to Report (Section IX.G.I) to Reporting (Section X) while clarifying that failure to comply with certain provisions of the Reporting section is a violation of the Code. Pgs. 23, 26-29.

Rationale: In an effort to enhance readability and avoid any confusion or inconsistencies between Section IX.G.1. and Section X., the details regarding an Adult Participant's mandatory reporting obligations were consolidated into Section X. All that remains in the Failure to Report section is the notion that failure to comply with certain provisions included in Section X constitutes a violation of the Failure to Report provision.

Topic: Abuse of Process.

Changes: Included additional forms of Abuse of Process, including unreasonable pressure to compel another to participate in the Center's processes, surreptitiously recording any part of the Center's process, interfering or attempting to interfere in or influence the outcome of any Center process, and any other conduct which is likely to or does directly or indirectly abuse or interfere with the Center's process. Pgs. 23-25.

Rationale: The additions to this section allow the Center to take a more holistic approach to the wide-ranging types of behaviors that have the potential to interfere with the Center's process. The changes also make clear that the Center need not show that the conduct actually abused the process in some meaningful way, only that the conduct was intended or likely to abuse or interfere with the Center's process.

Topic: Methods of Resolution & Holds.

Changes: Added and defined each type of Resolution and Hold utilized by the Center, to include Conditional, Alternative, Informal Resolutions, and Formal Resolutions; Administrative Closures; Administrative Holds; and Jurisdictional Holds. Pgs. 31-34.

Rationale: This change codifies the Center's updated efforts and approach to Resolutions and Holds, which has been communicated publicly for almost the past year. The classifications and their definitions are meant to increase transparency, provide the USOPC and NGBs with additional information which may be helpful in the implementation of safety plans within their sport, and in the case of Conditional & Alternative Resolutions, introduce a new form of Resolution specifically for Minor Respondents.

Topic: Temporary Measures.

Changes: Moved Temporary Measures hearing rules and procedures from Section XIV.40. to Section XII. Also changed the length of the position statements (from a 5-page maximum to a 10-page maximum), clarified that there shall be no testimony at this hearing from any witnesses, including the Respondent, and clarified that the Arbitrator may not impose a deadline by which the Center must issue a Decision. Lastly, a mechanism was added by which a Respondent can make a single, written request for reconsideration no sooner than 120 days following the Arbitrator's decision. Such a request will be decided on the briefing, and no additional hearing will be held. Pgs. 40-45.

Rationale: This change consolidated the two portions of the Code pertaining to Temporary Measures. It also clarifies in more detail the parameters of the Arbitrator's jurisdiction and decision-making within the limited scope of Temporary Measures hearings, while at the same time providing an avenue by which Respondents can seek reconsideration after a determinate amount of time.

Topic: Minor Respondent Resolutions & Administrative Closures.

Changes: In order to meet the unique needs of Minor Respondents and their parents/guardians, the Center has developed two new Resolution Types: Conditional Resolution and Alternative Resolution. Conditional Resolutions are for the Movement's youngest Respondents, those under the age of 13, while Alternative Resolutions are for Minor Respondents aged 13-17. Additionally, a new Minor Respondent Administrative Closure category was created – Letter of Concern – mirroring the Center's pre-existing Admonishment. Pgs. 31-32.

Rationale: The Center is dedicated to protecting and improving the safety of all Movement Participants. The Center recognizes Minor Respondents are different from Adult Respondents due in large part to their changing and developing brains. These newly created Minor Respondent Resolution & Administrative Closure types are specifically tailored to focus on education, rapid response, trauma-informed practices, and risk mitigation within the context of sport.

Topic: Support Person.

Changes: Added the option for Claimants, Respondents, and witnesses to have one Support Person present during Center processes. Claimants and Respondents may have one Support Person in addition to an Advisor(s). Pgs. 10, 35-36.

Rationale: This change acknowledges Claimants, Respondents, and witnesses may have experienced trauma and would benefit from the presence of a Support Person during Center processes (interviews, hearings, etc.) for emotional support and assistance.

Topic: Medical and Mental Health Professional – Mandatory Reporting – Privilege.

Changes: Added an exception to mandatory reporting obligations for licensed medical or mental health professionals who learn of, or reasonably suspect, Sexual Misconduct involving an Adult Claimant to have occurred and the information was obtained through privileged communications and the reporting of such information would violate ethical obligations of the medical or mental health professional. This change does NOT change mandatory reporting obligations for medical or mental health professionals as it relates to the reasonable suspicion of Child Abuse or Sexual Misconduct involving Minors. Pg. 29.

Rationale: This change allows medical or mental health professionals operating in a professional capacity with Adults to comply with their state or federal licensing requirements related to privileged communications.
