

The U.S. Center for SafeSport has drafted revisions to the SafeSport Code. Below is an overview of the revisions and the reasoning behind such. The 2021 SafeSport Code will go into effect on April 1, 2021.

TOPIC: Expansion of definition of National Governing Body (NGB).

CHANGES: References to High Performance Management Organizations (HPMOs) deleted throughout.

RATIONALE: The Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020 expands the definition of NGB to include HPMOs and Paralympic Sports Organizations (PSOs). Therefore, references to HPMOs have been deleted from the Code. See 36 USC § 220501(b)(9)

TOPIC: Jurisdiction of the USOPC, NGBs, and LAOs.

CHANGES: Provisions regarding jurisdiction of the USOPC, NGBs, and LAOs consolidated into one section. Pg. 2.

RATIONALE: The consolidation of these jurisdictional sections was done for the sake of clarity.

TOPIC: Enforcement authority and reciprocal enforcement.

CHANGES: Sections regarding enforcement authority consolidated into one section. Clarification that Center issued eligibility determinations, sanctions, and temporary measures shall be reciprocally enforced by and between all NGBs, LAOs, and the USOPC. Pg. 3.

RATIONALE: The consolidation of enforcement authority sections was done for the sake of clarity. Further, this makes clear that all Center eligibility determinations, sanctions, and temporary measures are to be reciprocally enforced.

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TOPIC: Advisors.

CHANGES: In addition to parties or witnesses involved in an investigation or hearing, employees of, board members of, or legal counsel for the USOPC, an NGB, or the Center, are precluded from serving as an advisor in the resolution process. Pgs. 23-4.

RATIONALE: The Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020 prohibits NGBs and the USOPC from interfering in, attempting to interfere in, or influencing the outcome of the Center's investigations. Further, the Center must report any violation to Congress. Given such, changes to the Advisor section were necessary to comport with the law and assist with avoiding any conflicts of interest, appearance of such conflicts, or improper interference in Center investigations. See 36 USC § 220541(f)(4). Notably, however, this provision does not intend to interfere with the Office of Athlete Ombuds' performance of its statutorily mandated functions nor does it contemplate the Center's Resource & Process Advisor.

TOPIC: Claimant's request for anonymity and privacy subsections.

CHANGES: The subsections regarding a Claimant's request for anonymity and privacy moved from the Reporting section to the Resolution Procedures section. Pg. 24.

RATIONALE: As both the Claimant request for anonymity and privacy subsections relate to participation in the Center's processes rather than reporting, both were moved to the Resolution Procedures section.

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TOPIC: Due Process.

CHANGES: Addition of due process provisions required by law. Pgs. 25, 33.

RATIONALE: The Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020 extends certain procedural due process protections to Respondents. These include: 1) The provision of written notice of allegations against the Respondent; 2) The right to be represented by counsel or other advisor; 3) An opportunity to be heard during the investigation; 4) A reasoned decision from the Center if a violation is found; 5) The ability to challenge through arbitration any temporary measures or sanctions imposed by the Center. The SafeSport Code already incorporated these procedural rights into the investigative process. In addition, Respondents with criminal dispositions will receive a Notice of Allegations and an opportunity to speak to an investigator and provide relevant information and evidence before a decision is issued. See 36 USC § 220541(a)(1)(H). Further, the Act also permits the Center to impose temporary measures or sanctions before providing an opportunity to arbitrate. See 36 USC § 220541(a)(2)(A). This is in keeping with already established Center processes.

TOPIC: Evidence related to prior or subsequent conduct of Claimants.

CHANGES: Addition of evidentiary provisions related to Claimant sexual behavior or predisposition required by law. Pgs. 25, 36.

RATIONALE: The Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020 requires that evidence relating to other sexual behavior or the sexual predisposition of the Claimant not be considered in any decision, nor admitted as evidence in any arbitration, unless the probative value of the use or admission of such evidence, as determined by the Center or the arbitrator, as applicable, substantially outweighs the danger of— (i) any harm to the alleged victim; and (ii) unfair prejudice to any party. This provision replaces only the second paragraph of Section XI.L of the SafeSport Code. See 36 USC § 220542(a)(2)(J). The provisions in this section regarding the prior or subsequent conduct of a Respondent have not been altered.

TOPIC: Temporary measures.

CHANGES: Several subsections regarding temporary measures were consolidated, reordered, and reworded. Pgs. 27-8, 41-3.

RATIONALE: The consolidation, reordering, and rewording of temporary measures sections was simply done for the sake of ease of understanding and clarity. No revision made here changes how temporary measures are considered, imposed, or enforced, or the procedures or proceedings related to such.