



1099 North Meridian Street, Suite 800  
Indianapolis, IN 46204  
usagym.org

September 2, 2024

VIA EMAIL

The Honorable Charles E. Grassley  
United States Senator

Dear Senator Grassley,

USA Gymnastics (“USAG”) appreciates the opportunity to share information to improve the current SafeSport system to satisfy our collective duty of keeping all athletes safe from abuse. USAG has been working tirelessly to carry out its mission of building a community and culture of health, safety, and excellence, where athletes can thrive in sport and in life. But the SafeSport system—intended to protect athletes—has erected barriers that at times thwart those safeguarding goals. Indeed, the allegations in the referenced Washington Post article underscore an urgent need for Congressional reform to carry out the intent of the Ted Stevens Olympic and Amateur Sports Act, as amended (“the Sports Act”), to create safer environments for athletes.

It is important to begin by highlighting a critical omission in the Washington Post article: the individual referenced alleged to have abused children is not a USA Gymnastics member and has not been since 2020. For that reason, USA Gymnastics lacks the ability to terminate or take direct action against the individual’s membership. Despite that glaring omission, the article touches on issues that warrant Congressional attention, which USAG has outlined in previous letters to Congress during the past year (enclosed for ease of reference). While there are myriad issues, USAG will take the opportunity to address a few of the flaws in hopes of a better system in the future.

First, the SafeSport system’s strict jurisdictional barriers render it unworkable in practice and disserve athletes and all stakeholders of athlete safety. The system’s jurisdictional barriers prohibit USAG from conducting its own investigations into misconduct allegations thereby not allowing National Governing Bodies (“NGBs”) to make informed decisions in the interest of protecting its athletes. The SafeSport Code provides that “[w]hen the relevant organization has reason to believe that the allegations presented fall within the Center’s exclusive jurisdiction, the organization—while able to impose measures—may not investigate or resolve those allegations.” And in fact, the Center investigates individuals it views as violating this provision for abuse of process, and the mere fact of such an investigation by the Center can result in an investigation into NGB employees. Furthermore, neither the statute nor the Center clearly delineates a line between impermissible investigating and permissible non-investigating activities, so while an NGB

may “impose measures”—such as no-contact directives and no-unsupervised-contact directives—it may be left to do so blindly without any substantiation of the allegations, without being able to identify the appropriate protective measure for the situation, or without even knowing the identity of the athlete(s) for whom such protective measures are intended. Moreover, NGBs are prohibited from imposing suspensions, which is the only athlete safety measure that would keep certain respondents from continuing to interact with athletes. The Center, on the other hand, not only has free reign to investigate, but also has the power to impose interim suspensions or other measures at any point during its investigations. NGBs are thus limited to a practically ineffective authority to “impose measures” and instead are too often left to hope that the Center will take swift action to protect athletes.

Second, and relatedly, the Center lacks transparency and refuses to share the information it has gathered with NGBs under its broad interpretation of the Sports Act’s “work product privilege,” which in turn severely limits NGBs’ ability to impose athlete safety plans. These unnecessary obstacles are wholly disconnected from the Center’s mission to end sexual, physical, and emotional abuse on behalf of athletes everywhere. Here is the what the process looks like from USAG’s perspective:

- When the Center exercises jurisdiction over reported allegations, the Center provides USAG with a form notice indicating the type of allegations (such as sexual misconduct or sexual harassment, among others). In some notices, the Center informs USAG that “the allegations of sexual and physical misconduct have been reported to law enforcement.” The Center, however, largely refuses to share additional information with USAG beyond the fact that the allegations were serious enough to report to law enforcement under mandatory child abuse reporting laws. This bare information leaves USAG without the ability to evaluate what was reported, the individuals involved, where or how the alleged misconduct occurred, and ultimately, whether restrictive measures or additional safety plans are necessary to protect athletes, such as a no-unsupervised-contact-with-minor-athletes restriction, a no-contact directive, lodging or transportation restrictions, or some combination of those protective measures. And because USAG is prohibited from imposing a suspension when the matter is under the Center’s jurisdiction, the individual will continue to participate in the sport unless and until the Center imposes restrictive measures on its own or resolves the matter (which may take years). Indeed, the Center’s jurisdiction operates such that if the NGB receives a new report, even with strong evidence of misconduct related to the misconduct being investigated by the Center, the NGB is jurisdictionally barred from suspending the participant and must

instead rely on the Center to impose the suspension, which it may or may not do for reasons unknown to and never shared with the NGB.

- Additional barriers exist even when the Center takes action. For instance, when the Center issues a no-contact directive to protect an athlete from a respondent, the Center provides USAG with a summary of the no-contact directive but includes **only the initials** of the athlete and not the child's name. USAG thus has no way of definitively identifying the athlete to enforce the directive for the protection of the minor child. NGBs have repeatedly highlighted this common-sense problem for the Center to no avail.
- Frequently, USAG receives notice from the Center that alleges a respondent has engaged in misconduct and then later receives notice that the Center has administratively closed the matter without explanation or any other information. There are countless examples, but this process has unfolded in cases where a respondent was alleged to have engaged in misconduct that was sexual in nature, including non-consensual sexual intercourse with minor females; where a respondent was alleged to have engaged in inappropriate conduct of a sexual nature, as well as physical and emotional misconduct, including attempting to grope a minor female outside the context of sport, subsequent domestic violence, and threatening his adult female partner; and where a respondent was alleged to have groomed a minor female athlete before exposing himself to her and attempting to touch her, resulting in a criminal investigation.

Third, the Center's suggestion that NGBs should exercise their authority to deny or revoke an individual's membership in the organization even when the Center has assumed jurisdiction over a SafeSport matter is itself fraught with problems. The Center's view on this topic has not always been clear or consistent—they only publicized this position in the July 2024 revision of the SafeSport Code and even though provided no guidance on the parameters. And because membership denial or revocation may functionally serve as a suspension, an NGB who exercises its right to police its membership roll does so at its peril if the Center determines that the membership decision is really a suspension for a SafeSport matter. Moreover, denying or revoking one's membership is likely to trigger the Sports Act's opportunity-to-participate process, necessitating a hearing outside the SafeSport process. While such a hearing does not run afoul of the Center's jurisdictional exclusivity, it does create a glaring evidentiary problem for the NGB that must defend its membership decision in a hearing and potentially arbitration—the NGB will likely need evidence to justify its membership decision, but it cannot gather the evidence itself and the Center will not share information. Aside from these barriers, the membership option can be wholly ineffective when the perpetrator is neither a member nor seeking membership—another crucial jurisdictional gap in the Sports Act that warrants review.



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Finally, USAG takes athlete safety measures seriously and evaluates the appropriateness of a restriction based on three factors: the allegations and the facts and circumstances of the case; the need to maintain the safety or well-being of participants or the community; and whether the allegations against the respondent are sufficiently serious to warrant a safety measure. After the Center assumes jurisdiction over a case, however, it is uncommon for USAG to receive requests for athlete safety measures. That is not because of any barriers to such requests—in fact, USAG has an online reporting portal, a hotline, and is open to receiving emails, mail, and phone calls. Rather, as a practical matter those requests are more likely and frequently directed to the Center, which is engaged in investigation, in direct contact with all those involved, and in the best position to evaluate and effectuate restrictions based upon the specific allegations. Nevertheless, on the rare occasion when USAG has sufficient information that warrants an athlete safety measure, USAG has not hesitated to impose those measures. USAG's historical records demonstrate that, since 2020, it has imposed restrictions on at least 53 occasions when the allegations fall within the Center's jurisdiction, which restrictions have included directives to individuals not to engage in unsupervised contact with minor athletes and suspensions (prior to the Center assuming jurisdiction).

In summary, a fulsome consideration by Congress of these and other issues is timely and appropriate. USAG welcomes the opportunity to work with your offices to ensure the true and noble intent of the law is implemented within a transparent and responsible system.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Leung".

Li Li Leung  
President and CEO  
USA Gymnastics