



February 15, 2018

The Honorable Jerry Moran  
Chairman  
Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security  
United States Senate  
Washington, DC 20510

The Honorable Richard Blumenthal  
Ranking Member  
Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security  
United States Senate  
Washington, DC 20510

Re: Letter of February 2, 2018

Dear Senators Moran and Blumenthal,

USA Basketball (“USAB”) appreciates your interest in athlete protection. As an organization, this is something we take seriously, and we are deeply troubled by the recent reports of abuse committed by Dr. Nassar. We believe in strong protections for our athletes, and accordingly, USAB places great importance on our Safe Sport program, and we are always looking for ways to make our programs even stronger. Everyone involved with USAB, including our Board of Directors, is required to take SafeSport training. Further, USAB employs a full-time Director of SafeSport to oversee all aspects of this important program within USAB.

It is our goal that USAB be a leader in athlete protection. In fact, USAB operates a coach license program for coaches involved in our youth program. The license requires that a coach pass a criminal background check (all of which are updated every 30 days) and take SafeSport training. To date, USAB has licensed over 20,000 coaches, and possibly more importantly, has denied a license to hundreds of coaches who did not pass our background screen and or otherwise meet our standards.

Below are USAB’s responses to your questions in your letter of February 2, 2018.

**1. What reporting protocols for child and sexual abuse allegations are currently in place to ensure that all reports receive fair, timely, and thorough review by all appropriate parties, including law enforcement?**

USAB's reporting protocols are detailed in its SafeSport Handbook, which is posted online on USAB's website (<https://www.usab.com/about/online-forms-and-apps/usa-basketball-safesport-handbook.aspx>). We have enclosed a copy for your convenience. In the USAB SafeSport Handbook, USAB has a number of reporting requirements, including but not limited to:

It is the policy of USA Basketball that Covered Individuals must report to the appropriate USA Basketball representative . . . : (1) suspicions or allegations of child physical or sexual abuse, (2) actual or perceived violations of the Sexual Misconduct, Physical Abuse, Emotional Abuse, Bullying, Threats and Harassment, or Hazing Policies, and (3) any other actual or perceived violations of the USA Basketball SafeSport Program Handbook. If USA Basketball receives a report of physical or sexual misconduct involving a minor, USA Basketball will make a report to the proper law enforcement authorities. This may not absolve the original reporter of his or her duty to report physical or sexual misconduct toward a minor to law enforcement authorities. Many states have reporting requirements, and you should determine whether you have a personal obligation to report to law enforcement authorities.

In addition, Covered Individuals are required to report to the U.S. Center for SafeSport any conduct of which they become aware that could constitute (a) sexual misconduct; (b) misconduct that is reasonably related to the underlying allegations of sexual misconduct; or (c) retaliation related to an allegation of sexual misconduct.

“Covered Individuals” are:

- USA Basketball staff;
- USA Basketball Board members;
- Individuals USA Basketball formally authorizes, approves or appoints to a position of authority over, or to have frequent contact with athletes, including (without limitation):
  - USA Basketball National Team coaches;
  - USA Basketball National Team support staff, and other National Team volunteers, including (without limitation) those acting as chaperones for athletes
  - All USA Basketball coach licensees and pending applicants;
- Any other individual participating in the activities or affairs of USA Basketball.

USAB is explicit that individuals within USAB who receive a complaint should not attempt to evaluate the credibility or validity of child physical or sexual abuse allegations before reporting them.

USAB also requires (i) staff members; Board members; and (iii) individuals that USA Basketball formally authorizes, approves or appoints (a) to a position of authority over, or (b) to have frequent contact with athletes to undergo SafeSport training, so that they may better be able to identify potential abuse and know how to report it.

USAB has also created an intake form to aid in the fair, timely, and thorough review of child and sexual abuse reports by all appropriate parties, including law enforcement. The intake form allows the organization to gather clear, cogent, and direct information regarding allegations of abuse to aid in reporting to, and review by, all appropriate parties.

**2. Are there special accommodations to account for volunteers that are separately employed by non-NGB institutions, like the case of Dr. Nassar who was employed by MSU, in these reporting practices?**

USA Basketball has made a concerted effort to ensure that our volunteers are subject to our organization's reporting requirements, whether they are separately employed by non-NGB institutions or not. Volunteers with USAB are subject to USAB's rules, policies, and procedures, including USAB's Code of Conduct and SafeSport Handbook. As such, volunteers are not treated differently than other individuals participating in USAB's activities or affairs when it comes to USAB's reporting practices.

Individuals subject to reporting by USAB include volunteers involved in USAB's activities and affairs (*e.g.* Board members and National Team staff), and those who otherwise subject themselves to the jurisdiction of USAB and SafeSport (*i.e.* coach licensees). As mentioned above, USAB conducts a youth coach licensing program, whereby coach licensees are subject to background screens and are prohibited from receiving a license if they have been convicted of violent sex crimes, or child endangerment, neglect or abuse, among other things.

Unlike most of the other NGBs, USAB does not have individual members, as USAB is an "association of associations." Moreover, many individuals who are involved in the affairs of USA Basketball are volunteers and not employed directly by the organization. Accordingly, safeguards have been implemented to ensure the safety of all those who participate on our teams and in our events, as their health and safety remain of the utmost priority.

**3. Has your organization ever utilized an NDA to enforce confidentiality against any athlete, volunteer, or employee in the past? To the extent possible, please provide all details regarding the justification and circumstances surrounding every individual NDA used by your organization.**

USAB has never used an NDA to require an athlete, volunteer or employee to keep confidential and/or not to disclose information about any wrongdoing, bad act or omission, or any violation of USAB's rules, the rules of the U.S. Center for SafeSport, or any applicable law, by any individual, of which USAB or its representatives is aware.

USAB has, in the past, used NDAs to protect its trade secrets and confidential business-related information and/or the trade secrets and confidential business-related information of others, but not as it related to any wrongdoing, bad act, or omission, or any violation of USAB's rules, the rules of the U.S. Center for SafeSport, or any applicable law.

**4. Has your organization ever utilized additional binding agreements other than NDAs with athletes under your purview? To the extent possible, please provide all details regarding the justification and circumstances surrounding every individual agreement used by your organization.**

USAB has not entered into any binding agreements that would require an athlete to keep confidential and/or not to disclose information about any wrongdoing, bad act or omission, or any violation of USAB's rules, the rules of the U.S. Center for SafeSport, or any applicable law, by any individual, of which USAB or its representatives are aware. However, USAB regularly uses waivers and releases of liability for athletes participating in its programs. These agreements generally cover the possibility of physical injury to an athlete inherent to the sport of basketball. They also subject an athlete to USAB's rules, policies, and procedures, including its Code of Conduct and SafeSport Handbook, and the rules, policies, and procedures of the U.S. Center for SafeSport.

In addition, under the Ted Stevens Olympic and Amateur Sports Act, NGBs are required to participate in binding arbitration where an athlete alleges that the NGB has denied him or her an opportunity to participate in certain competitions, and where a member alleges that the NGB has violated certain provisions of the Sports Act or USOC Bylaws. In these cases, it is the athlete who chooses whether or not to require an NGB to participate in binding arbitration, and the athlete is in no way obligated to participate. With that as background, in response to the request that each NGB describe the cases in which an NGB might have required an athlete to participate in forced binding arbitration, USAB reports that it has not required an athlete to participate in forced binding arbitration.

**5. Since the recent lawsuits filed against USOC, USAG, and MSU for organizational failures to investigate, discipline, or remove Dr. Nassar after complaints of sexual abuse, has your organization taken any additional steps to improve the transparency, efficiency, and effectiveness of its criminal misconduct reporting mechanisms?**

Since the recent lawsuits, USAB's Board of Directors has implemented a policy for staff to provide regular updates to the Board on SafeSport matters being handled by USAB or the Center on behalf of USAB. Further, not long before the lawsuits were filed, USAB hired a Director of SafeSport to oversee all aspects of the SafeSport program within USAB. In addition, the Board also adopted a requirement that each and every member of the Board complete the SafeSport training program.

With that said, USAB is always on the lookout for ways to strengthen our institutional protocols to protect our athletes and those who participate in our programs and activities. Among other things, USAB's policies require that allegations of child physical or sexual abuse be reported to law enforcement as soon as possible, and that allegations under the jurisdiction of the U.S. Center for SafeSport are reported to the Center. USAB's staff and Board members continually engage in discussions about how to proactively improve USAB's SafeSport policies, including its criminal misconduct reporting mechanisms, and USAB has taken the lawsuits as an additional reason to look closely at its policies.

**6. Please identify any circumstance in which USOC did not take any action following a report of criminal behavior from your organization. To the extent possible, please provide all details regarding the justification and circumstances involved in USOC's decision to not act.**

Other than updates and reports on issues already being handled by law enforcement, USAB has not made any reports of criminal behavior to the USOC. The USOC has always been responsive to those updates and reports, and we have not experienced a situation in which the USOC did not take any action following such a report.

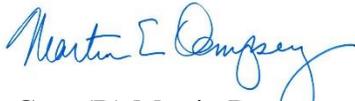
**7. In 2017, USOC engaged with a third-party consultant to assess compliance with SafeSport policies and procedures within USOC and all of its NGBs and High Performance Management Organizations (HPMO). Please describe the report issued for your organization, including any recommendations necessary for full compliance. If additional recommendations were issued, what actions were taken by your organization? Are there any remaining recommendations that your organization has yet to fully implement?**

USAB successfully completed the audit of its SafeSport policies and procedures and received one recommendation to require that individuals it formally authorizes, approves or appoints (a) to a position of authority over, or (b) to have frequent contact with athletes, complete criminal background checks and education and training requirements in a timely manner, and before they have contact with athletes, to provide assurance that they are educated on the requirements of the

Athlete Safety Standards. (USAB's policies and procedures already required background checks for such individuals.) In response, USAB amended its policies to ensure compliance, hired a Director of SafeSport, and required all staff, Board members, and others participating in the activities of USAB to take updated SafeSport training and complete background checks.

Please do not hesitate to contact us if you have additional questions. We commend your initiative to ensure that our athletes are protected, and fully support these efforts. We look forward to working with you in the future on this important matter.

Sincerely,



Gen. (R) Martin Dempsey  
Chairman  
USA Basketball

Sincerely,



Jim Tooley  
Chief Executive Officer  
USA Basketball