



February 15, 2018

Via electronic mail

Honorable Jerry Moran
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Bldg.
Washington, DC 20510

Dear Senators Moran and Blumenthal:

I respectfully write on behalf of the United States Soccer Federation, Inc. (“U.S. Soccer”) in response to your letter dated February 2, 2018. U.S. Soccer shares your concerns regarding athlete safety, and we, too, were pleased to see the passage and signing of the Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017 (the “Act”). In addition, we urgently request that Congress fully fund the U.S. Center for SafeSport.

U.S. Soccer is committed to the health and safety of our athletes and preventing harm to athletes in all aspects of soccer within our control and to promote education throughout the sport. Specifically, U.S. Soccer continually works to promote best practice policies, training, monitoring and reporting mechanisms designed to create awareness in the soccer community and create an environment where concerns are promptly escalated and appropriately addressed. The U.S. Center for SafeSport has been a strong partner in this effort, but full funding from the federal government is vital to fully implement the mission of the Center.

We offer the following responses to the questions raised in your letter.¹

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?

U.S. Soccer operates a reporting hotline on its web-site and via telephone. This hotline is monitored by the U.S. Soccer legal department. In addition, we train U.S. Soccer personnel

¹ Capitalized terms used but not defined herein have the meaning provided in your February 2 letter.

at all levels to escalate concerns to our in-house legal department. Concerns implicating sexualized misconduct are promptly referred to the U.S. Center for SafeSport for investigation, consistent with USOC mandate and the Center's rules, and, to the extent required by law, reported to applicable law enforcement authorities. Where U.S. Soccer has a good faith concern that an individual presents a risk to an athlete, we reserve the right to place the individual on temporary risk management hold pending the completion of SafeSport's investigation or take other actions reasonably necessary to prevent contact with athletes while the matter is investigated.

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?

Consistent with the response of Conor McGrath, Legislative assistant to Senator Moran, to Max Cobb, Chair of the National Governing Body Council, we interpret this question as asking whether U.S. Soccer has agreements or other arrangements with its volunteers that modify in any way a volunteer's duty and obligation to report to U.S. Soccer or its representatives, the U.S. Center for SafeSport, or law enforcement officials when an individual becomes aware of any wrongdoing, bad act, or omission, or any violation of NGB rules, the rules of the U.S. Center for SafeSport, or any applicable law. We cannot speak to the employment relationship between USA Gymnastics and Dr. Nassar—we do not believe that situation is analogous to any U.S. Soccer relationship. At U.S. Soccer, physicians providing services to the National Teams work pursuant to written contract requiring their compliance with applicable law and U.S. Soccer policy, are compensated for their services, and prior to beginning work, undergo background checks and complete SafeSport training. Any report regarding alleged sexualized misconduct on the part of any individual associated with U.S. Soccer, whether independent contractor, employee, or volunteer, would be referred to the U.S. Center for SafeSport, and, to the extent required by law, reported to applicable law enforcement authorities. U.S. Soccer would deem any failure to report allegations of sexualized misconduct a serious breach of U.S. Soccer policy, and potentially a violation of law, justifying termination of contract and/or employment.

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.

Consistent with the response of Conor McGrath, Legislative assistant to Senator Moran, to Max Cobb, Chair of the National Governing Body Council, we interpret this question as asking whether U.S. Soccer has ever 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 NGB rules, the rules of the U.S. Center for SafeSport, or any applicable law by any individual which the NGB or its representatives

may be aware. Following a reasonable review of our written records, we are not aware of an instance meeting the intent of this question. Although U.S. Soccer does include standard confidentiality language in our employee handbook, for example, this language is narrowly tailored to ensure that trade secret and/or confidential information is properly protected, such as maintaining the confidentiality of commercial contracts or maintaining the confidentiality of personally-identifying information or athlete medical or workers' compensation claim information. U.S. Soccer also maintains an express no retaliation policy regarding good faith reports of potential violations of law or policy. In addition, though certain legal settlements may contain confidentiality, these provisions tend to mutually protect both parties to the agreement and exist for reasons other than the concerns raised in your February 2 letter and are unrelated to allegations of sexualized misconduct. Finally, we would note that U.S. Soccer is aware of, and in compliance with, California state law prohibiting nondisclosure agreements in civil cases that could be prosecuted as felony sex crimes.

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.

Consistent with the response of Conor McGrath, Legislative assistant to Senator Moran, to Max Cobb, Chair of the National Governing Body Council, we interpret this question to inquire under what circumstances an NGB might have entered into some sort of agreement that required an athlete to keep confidential and/or not to disclose information about any wrongdoing, bad act, or omission, or any violation of NGB rules, the rules of the U.S. Center for SafeSport, or any applicable law by any individual which the NGB or its representatives may be aware. In response, we are not aware of such an instance. In addition, in response to the inquiry of Anna Yu, legislative assistant to Senator Blumenthal, in an email to Mr. Cobb dated February 7, seeking "cases in which an NGB might have required an athlete to participate in forced binding arbitration," please be advised that the Senior Men's and Women's National Soccer Teams are each members of trade unions and have agreed to be bound by Collective Bargaining Agreements entered into by their respective Players' Associations, which, as most collective bargaining agreements do, include standard arbitration language regarding grievances. In the event grievances are settled, the written settlement agreement may include mutual confidentiality protecting each of U.S. Soccer or the athlete. We do not understand these types of agreements to implicate the concerns raised in your letter, particularly since our senior athletes are represented by unions, but given the breadth of your question, we would be remiss if we did not disclose these agreements.

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?

We are working with our members to educate them, improve coordination and ensure compliance with the Act. U.S. Soccer is committed to continued training and education under the SafeSport model. We believe this training creates a shared language around these important issues and empowers individuals throughout the sport to identify issues as early as possible, and the tools to report their concerns to parties who are able to impact the safety of athletes on the ground. We plan to continue to work to improve coordination with the U.S. Center for SafeSport to educate, encourage reporting, and implement policies aimed at preventing abuse, and we hope parents and other stakeholders will support our efforts to train athletes at all levels.

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.

U.S. Soccer refers reports of alleged criminal behavior to appropriate law enforcement authorities and, where applicable, the U.S. Center for SafeSport, which U.S. Soccer understands to be independent of the USOC as of at least March 2017. We are not aware of an instance responsive to this question.

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?

We understand this question to seek information regarding the SafeSport audit performed by Baker Tilly Virchow Krause. Our audit response is attached to this letter as Exhibit A. Baker Tilly concluded that "U.S. Soccer has implemented a process to ensure all required individuals complete SafeSport education before they have contact with athletes." There are no remaining recommendations that our organization has yet to fully implement.

U.S. Soccer is proud of its efforts to protect athletes, but we agree that more can always be done. We continue to work to implement policy, training, monitoring and reporting at every level with which we may have impact. To this end, on behalf of U.S. Soccer, I again urge Congress to fully fund the U.S. Center for SafeSport. In addition to on-going training and educational efforts, this entity serves an important investigatory function, particularly when law enforcement does not have the resources, information or legal basis to act.

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I hope this information is helpful and addresses your concerns. Thank you to each of you for your leadership in this area and your efforts to protect all athletes, regardless of sport.

Sincerely,



Daniel T. Flynn
Chief Executive Officer, Secretary General