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Q: Once any coach, staff member, sport official or member of the board of directors of the sport club becomes aware of misconduct, how should the local open amateur sport organization respond?

A: The sport organization response should be clearly defined by policy and include the following essential elements: (a) a mandate to immediately restore a safe sports environment that will stay in place until the conclusion of adjudication, (b) immediately reporting the incident to proper authorities as required by law, (c) clearly defining the supporting role of the trusted parent or other volunteer designated to assist and support the athlete and/or parents in reporting more powerful coaches or officials or other athletes and participating in the investigation and adjudication process, (d) in the case of minor transgressions, a mechanism that provides an option for the resolution of the situation to the satisfaction of the affected athlete (and his/her parents) or (e) the initiation of a formal fact-finding and adjudication process.

1.0 **Immediate Action to Restore Safe Environment.** If the complaint alleges a dangerous or hostile environment, the Club President and/or Athlete Welfare Advocate should act immediately to restore a safe environment while the complaint process takes place (i.e., temporary suspension of the accused athlete or coach).

1.0 **Reporting to Police or the U.S. Center for Safe Sport.** All potentially criminal conduct should be immediately reported to the police. The person accused of such severe misconduct should be immediately suspended from employment or affiliation with the Club until the complaint process is completed. If the violation involves sexual misconduct, the report and any subsequent investigation and adjudication must be to the United States Center for Safe Sport per federal law (S.534, the “Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017”). Club fact-finding and adjudication proceedings should move forward simultaneously with criminal proceedings and begin promptly as soon as authorities have completed their initial gathering of evidence.

3.0 **Clearly Defined Supporting Role of a Trusted Parent or Volunteer Designated to Assist the Victim**. The four most important elements of such a position are (1) maintaining confidentiality if asked, (2) managing the resolution of minor complaints, (3) representing the person and interests of the athlete or her parents throughout the reporting, complaint, fact-finding and adjudication process, and (4)

initiating a formal written complaint if necessary. If the athlete, or parent of a minor athlete, reports harassment or other serious transgression and asks that the reporting athlete's or victim's name not be disclosed to the person accused, all reasonable steps to investigate and respond to the complaint consistent with the athlete's request should be taken as long as doing so does not prevent the Club from responding effectively to serious misconduct (i.e., sexual harassment, hazing and preventing harm to others). If the athlete requests confidentiality, including a request not to inform the athlete's parents, such request should be honored. The Club should recognize that any policy requiring automatic disclosure to parents may prevent the athlete asking for assistance. The parent's responsibility should be to represent the person and interest of the athlete. The athlete should not be required to confront an alleged abuser. If asked, the designated parent advocate should represent or accompany the athlete in any meetings with the person assigned to investigate the allegation. The power differential between coaches and athletes or their parents is simply too great to expect either to be alone during the fact-finding and adjudication processes.

4.0 **In the case of Minor Transgressions, a Mechanism that Provides an Option for the Resolution of the Situation to the Satisfaction of the Affected Athlete (and his/her parents)**. If the parent athlete advocate and the complainant agree that the complaint is minor and can be resolved to the satisfaction of the complainant and the person accused without a formal written complaint and adjudication proceeding, such effort to negotiate a resolution may be initiated by the parent athlete advocate on behalf of the athlete. If a resolution is agreed up by both the complainant and the person accused of misconduct, it should be recorded in writing and signed by both parties. The parent athlete advocate may ask the Club President to assist in this process, such as in any case where the resolution includes a warning or any other formal action against the person alleged to engage in misconduct. In such cases, a formal written record of such disciplinary action should be placed in the employment file of the person alleged of the misconduct.

Note 1: The decision to treat the professional misconduct of a coach or other staff member as minor or major is an important one. The standard for a serious violation should be any behavior that causes significant physical or psychological harm to the athlete, violation of a safety rule or procedure, use of a pedagogical practice that any coach should be reasonably be expected know would endanger the health and safety of the participant or violation of a specific policy defining prohibited coaching conduct. For example, violation of model policies on physical abuse, prohibited coaching conduct, failure to report, stop or engage in sexual harassment or abuse, bullying or hazing would constitute serious violations. In informal resolution should never be used to address serious misconduct.

Note 2: In the case of minor misconduct that represents a first-time unintentional offense by a coach, an isolated instance or an unacceptable pedagogical technique of an inexperienced volunteer coach (such as the use of excessive exercise as punishment, use of profanity, engaging in verbal discourse that denigrates another, roughly yanking an athlete into position by grabbing his or her jersey, etc.) that results in no significant physical or psychological harm to the athlete but nevertheless represents unacceptable pedagogical practice, language or behavior, the coach's supervisor should use the standard human resources model of "gradual escalation of disciplinary processes": (1) informal oral warning, (2) written warning and performance improvement plan, including reevaluation at a time certain, and (3) written warning including specific corrective action (e.g., suspension, termination, etc.) in the event of a failure to correct. It should be noted that a written complaint form may not be necessary for such minor complaints that are easily resolved by the parent athlete advocate to the satisfaction of the complainant and his/her parents but, in such cases, the parent athlete advocate should be responsible

for putting a record of the situation and resolution in the employee's personnel file. This step is important because of the significance of repeat offenses which may not be apparent over the short term.

5.0 **The Initiation of a Formal Fact-Finding and Adjudication Process**. Assuming the allegation is not sexual misconduct and therefore under the exclusive jurisdiction of the U.S. Center for Safe Sport, the allegation is denied, a resolution is not agreed upon, a resolution is not appropriate or if the alleged offense falls within the zero tolerance or serious inappropriate or unprofessional conduct, the complaint should proceed directly to the fact-finding and adjudication process. Specifically, the parent athlete advocate should help the athlete (a) complete a complaint form if the decision is made to pursue a formal complaint process and (b) respond to any inquiries from the individual investigating the allegation. The parent athlete advocate should keep the Club President informed of pending situations while maintaining promises of confidentiality and, if necessary, should seek the assistance of the Club President in acting to restore a safe environment, such as a request to suspend the accused while the matter is being investigated and adjudicated.

The accused should be given notice of all charges. The Club should appoint an impartial Fact Finder to interview all parties. Some clubs accept the pro bono services of a parent attorney, social worker or other experienced professional from the community to perform the fact-finding process. The accused should receive a full hearing before and the opportunity to submit a detailed written statement to the Fact Finder. The Fact Finder should present the facts and recommendations, including the statements of the accused, the complainant, and all witnesses to an adjudication panel that determines if club policy was violated and, if necessary, imposes appropriate sanctions.

It should be noted that taking action against a coach, volunteer, other employee, member athlete or parent regarding violation of Club policy requires a lower standard of proof than is required in criminal cases that might result in incarceration of the offending party handled by our legal system. Administrative decisions regarding minor or serious violations of policy simply require the Club President or adjudication panel to believe that, more likely than not (51% certainty), the policy was violated. Thus, the Club President can act to suspend the employee before the completion of a fact-finding process and such action, if determined by the Club President to be necessary, should be taken to protect participants. Similarly, the decision of the adjudication panel is a determination of whether the members believe that, more likely than not, Club policy was violated. These decisions do not require the higher criminal decision standard of "beyond a reasonable doubt" (99% certainty).

-- SMR assisted in the development of and strongly recommends the model policies and practices and athlete/parent educational materials contained at Safe4Athletes.org.

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