



# Child Abuse Risk Management and Other Misconduct Risk Management Plan

## Introduction

In 2018, Congress enacted a new Federal law, The “Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017” (“Safe Sport Act”), which specifically requires applicable amateur sports organizations which are not part of national governing bodies such as Dixie Softball Inc. and affiliated leagues to:

1. Duty to Report Child Abuse by Covered Individuals – A covered individual is any adult who is authorized by an applicable amateur sports organization to interact with a minor or amateur athlete. Covered individuals must report suspicions of child abuse, including sexual abuse, within 24 hours to law enforcement. Failure to report may be a criminal violation under state and federal law.
2. Limit One-On-One Interaction with Minors – Must establish reasonable procedures to limit one-on-one interactions between an amateur athlete who is a minor and an adult (who is not the minor’s legal guardian) at a facility under the jurisdiction of the applicable amateur sports organization without being in an observable and interruptible distance from another adult, except in emergency circumstances.
3. Training for Adults and Minors – Must offer and provide consistent training to all adult members who are in regular contact with amateur athletes who are minors, and subject to parental consent, to members who are minors, regarding prevention and reporting of child abuse to allow a complainant to report easily an incident of child abuse to appropriate persons.
4. Prohibit Retaliation – Must prohibit retaliation against any individual who makes a report required under the Safe Sport Act.

An applicable amateur sports organization is one that is not part of a national sports governing body, participates in interstate or international amateur athletic competition, and includes any adult who is in regular contact with an amateur athlete who is a minor. However, even if an affiliated Dixie Softball League does not have a single team that crosses a state line to compete, the Safe Sport Act establishes a new standard of care that will likely be used in future case law.

Penalties For Failure To Comply: Any minor who was a victim and who suffers personal injury as a result of a violation of the Safe Sport Act, may sue in U.S. District Court and may recover actual damages or liquidated damages in the amount of \$150,000 and the cost of the action, including reasonable attorney’s fees and other litigation costs. The court may also award punitive damages

## Purpose

The purpose of this risk management program is to reduce and/or prevent the occurrences of misconduct in Dixie Softball and its affiliated leagues. Misconduct can negatively impact participants, staff members, family, friends, and the sport.

Specifically, our organization will implement policies in the following areas to address all types of misconduct and to set forth boundaries of appropriate and inappropriate conduct: sexual misconduct, including child abuse; grooming behavior; physical misconduct; emotional misconduct; bullying; harassment; hazing; social media and electronic communications; locker rooms and changing areas; travel; reporting misconduct; screening staff; and monitoring for compliance.

This plan will serve as awareness education training for all our staff who agree to educate themselves on all forms of misconduct and to refrain from engaging in such misconduct and in violating the policies herein. It should be posted on the organization website and distributed to all adult staff members.

This plan is designed for Dixie Softball, Inc. and its affiliated leagues. It should be posted on the organization websites and should be freely distributed to all adult officials, staff, and parents in the program.

## **Definitions**

**Participant:** Any athlete or non-athlete participant who participates in any tryouts, practices, drills, instructional sessions, competitions, camps, clinics, tournaments, or non-sport outings including travel, lodging, and health or medical treatment sponsored by the organization.

**Child, Children, Minor, and Youth:** Anyone under the age of 18. These terms are used interchangeably throughout this program.

**Coach:** Any adult who has or shares the responsibility for instructing, teaching, schooling, training, or advising athletes of the organization.

**Misconduct:** Behavior that results in harm, the potential for harm, or the imminent threat of harm. Age is irrelevant to misconduct. There are six primary types of misconduct in sports: sexual (including grooming behavior), physical, emotional, bullying, harassment, and hazing.

**Organization:** Dixie Softball, Inc. and its affiliated leagues that adopt this misconduct risk management plan.

**Misconduct Officer (MO) and/or Misconduct Committee (MC):** The officer or a committee appointed by the organization that manages any and all allegations of misconduct and policy violations. The MO and MC report to the board of directors.

**Staff Member:** Any paid or unpaid member providing service to the organization including but not limited to officers, directors, administrators, coaches, assistant coaches, trainers, and team parents.

## **Types of Misconduct and Examples**

The following six types of misconduct are prohibited by the organization:

### ***1. Sexual Misconduct, including Child Sexual Abuse***

Sexual misconduct is defined as:

- Any sexual interaction, whether non-touching or touching, that is forced or perpetrated in an exploitative, harassing, aggressive, or threatening manner.
- Any sexual interaction between a participant and an individual with direct, indirect, or evaluative authority. Such relationships usually involve power imbalance; disparity in age, development, size, or intellectual capabilities; the existence of an aggressor; and are likely to impair judgment or be exploitative.
- Any conduct or acts defined under state or federal law as sexual abuse or misconduct.

Sexual misconduct can be between adults, between adults and minors, or between minors. Minors don't have the legal capacity to consent to sexual activity with an adult, and as a result, any sexual interaction between a minor and adult is strictly prohibited.

Types of sexual misconduct include:

- Sexual assault
- Sexual harassment
- Sexual abuse
- Any other equal intimacies that exploit an athlete

Touching offenses include:

- Fondling a participant's breasts or buttocks;
- Providing a sports-related reward (ex: playing time, position, lessons, award, praise) in exchange for sexual favors;
- Sexual penetration and sexual touching;
- Genital contact whether or not either party is clothed
- Any intimacies or sexual relations between a staff member and participant when the staff member is in a position of authority, trust, control, or evaluative decision making over the participant.

### **Permissible Physical Contact**

Some level of physical contact between a coach and a participant may be appropriate, such as in instruction, celebration, or consolation of a distraught participant who has been injured or after losing a competition. Appropriate physical contact in training and instruction consists of the following elements:

- The physical contact takes place in public.
- There is no potential for or actual, physical, or sexual intimacies during the physical contact.
- The physical contact is for the benefit of the participant and not to meet an emotional or other need of an adult.

Prohibited forms of physical contact include:

- Lingering or repeated embrace that goes beyond acceptable physical touch.
- Tickling, horseplay, or wrestling.
- Continued physical contact that makes a participant uncomfortable.

Non-touching offenses include:

- Making innuendos, comments, or jokes of a sexual nature about a participant or other behavior that is sexually harassing.
- A staff member referencing his or her sexual activities with a participant.
- Questioning a participant about his or her sexual activities.
- A staff member requesting or sending a revealing or nude photo to a participant.

- Exposing participants to pornographic material.
- Voyeurism
- Sending participants communications or photos, whether electronic (e.g. sexting) or otherwise, of a sexually suggestive or explicit nature.
- Intentionally exposing a participant to sexual acts.
- Intentionally exposing a participant to nudity (exception for shared changing areas or locker rooms).
- Non-verbal or verbal communication of a sexual nature; physical advances; or sexual solicitation.

The following are not defenses under any circumstances to an allegation of sexual misconduct: the consent of a minor, mistaking the age of a participant, or that the interaction did not occur during a sanctioned event of the organization.

### **Peer-to-Peer Child Sexual Misconduct**

Approximately one-third of all cases of sexual abuse are child peer-to-peer. Whether or not sexual interaction between children constitutes child sexual abuse turns on the existence of an aggressor, the age difference between the children, and/or whether there is an imbalance in power and/or intellectual capabilities. Allegations or suspicions of peer-to-peer child sexual abuse must be reported to the child abuse officer or a board member.

### **Grooming**

Grooming is an intentional and effective strategy that sexual predators use to set up and prepare victims, parents, and staff to gain a position of trust and lower their defenses, which assists in the perpetration of misconduct.

The steps taken in the grooming or seduction process are:

- Identify a child and determine his or her vulnerable areas (ex: being misunderstood, lack of attention from parents, lack of spending money, absent parents, etc.)
- Through careful observation of the target, determine their needs to fill what is missing.
- Fill the needs to create a special bond and to gain their trust. Examples are providing gifts and spending money, helping with homework, providing transportation, special consideration on the team such as more playing time, special attention, sharing secrets, etc.
- Spend a disproportionate amount of time with the family to gain their trust.
- Isolate the victim from their peers to create situations where they are alone.
- Gradually introduce sexual interplay that may start with conversations of a sexual nature (in person, texting, and social media), providing alcohol and drugs to lower inhibitions, watching pornography, sharing nude photos, tickling, horseplay, massages, and other boundary invasions that lead to sexual touching and nudity.
- Maintaining control and silence to continue and keep the sexual abuse hidden.
- Use shame or fear as motivating factors to continue the relationship.

Staff and parents who understand the grooming process and the policies that are meant to prevent it through education are likely to identify it and notify the MO or a board member of suspicious behavior.

### **One-on-One Interactions**

Two-Deep Leadership: Two adults (ex: any combination of coach(es)), volunteer(s), parent(s)) should be present at all times so that a minor cannot be isolated one on one with an unrelated adult. This also helps to protect the staff member from false accusations.

Individual Meetings: An individual meeting to address a participant's concerns may be necessary on occasion. During such meetings, the following guidelines should be observed:

- Any individual meeting should occur when others are present and where interactions can be easily observed.
- Where possible, an individual meeting should take place in a publicly visible and open area, such as in the corner of a building.
- If the meeting takes place in an office or a locker room, the door should remain unlocked and open.
- If a closed-door meeting is necessary, the staff member should inform another staff member and ensure the door remains unlocked.
- Individual Training Sessions: When necessary or requested, parent/guardian written consent should be obtained and a parent/guardian encouraged to attend.

Prohibited One-on-One Interactions: Except as provided above with regard to individual meetings, individual training, or emergency situations, any one-on-one interaction between an adult and a minor participant should be avoided. A possible exception may occur if the minor is stranded and the adult must be present so that the minor will not be left unattended or unsupervised. In such cases, the adult and minor should remain in the open until another adult arrives.

## **2. Physical Misconduct**

Physical misconduct includes:

- Intentional physical contact or threat of such that causes or has the potential to cause personal injury or bodily harm to the participant.
- Any act or conduct described as physical abuse under state or federal law, such as assault, child neglect, and child abuse.

Examples of prohibited physical misconduct:

### **Contact offenses**

- Punching, beating, biting, striking, choking, or slapping an athlete
- Intentionally hitting an athlete with objects or sporting equipment
- Providing alcohol to a participant who is under the legal drinking age
- Providing non-prescription or illegal drugs to any participant
- Encouraging or permitting an athlete to return to play after an injury (e.g. concussion) or sickness prematurely or without clearance from a medical professional
- Prescribing diet or other weight control methods for humiliation purposes and without regard for the health of the athlete (e.g. public weigh-ins or caliper tests)

### **Non-contact offenses**

- Isolating an athlete in a confined space (e.g. locking an athlete in a confined space)
- Forcing an athlete to assume a painful stance or position for no athletic purpose (e.g. requiring the athlete to kneel on a hard surface)
- Withholding, recommending against or denying adequate hydration, nutrition, medical attention, or sleep

Physical misconduct does not include physical contact that is a professionally-accepted coaching method for teaching skill enhancement, physical conditioning, team building or appropriate discipline.

### **3. Emotional Misconduct**

Emotional misconduct involves a pattern of intentional, noncontact behavior that causes or has the potential to cause psychological or emotional harm to a participant. Physical acts, verbal acts, or acts that deny support or attention are included in these behaviors.

Examples of prohibited emotional misconduct:

- **Verbal Acts:** A pattern of verbal behaviors that personally attack a participant (e.g. calling them disgusting, worthless, or fat) or repeatedly screaming at participants in a way that does not serve a legitimate motivational or training purpose.
- **Physical Acts:** A pattern of physically aggressive behaviors, such as throwing or punching sports equipment or other objects in the presence of participants.
- **Acts that Deny Support or Attention:** A pattern of ignoring or excluding a participant during practice or team discussions for an extended period of time.

Emotional misconduct does not include generally-accepted and age-appropriate coaching methods of skill enhancement, physical conditioning, motivation, team building, appropriate discipline or improving athletic performance. Note that a single incident such as a verbal outburst may be inappropriate but does not constitute emotional misconduct, which requires a pattern of harmful behaviors over time.

### **4. Bullying**

Bullying involves an intentional and repeated pattern of committing or intentionally allowing or not preventing behaviors that are intended to cause physical harm, fear or humiliation in an effort to socially isolate, diminish or exclude another participant physically, emotionally, or sexually.

Bullying can occur through verbal, written or electronic communications or by means of a physical gesture or act.

Examples of prohibited bullying behavior:

**Physical:** Hitting, pushing, punching, beating, biting, striking, kicking, choking, spitting, or slapping; throwing objects such as sports equipment at another participant.

**Verbal:** Teasing, ridiculing, taunting, name-calling, or intimidating, or threatening to cause someone harm.

**Social, including Cyberbullying:** Using electronic communication, social media or similar to harass, frighten, intimidate, or humiliate someone; using rumors or false statements about someone to diminish that person's reputation; socially excluding someone and asking others to do the same.

**Sexual:** Teasing, ridiculing, or taunting based on gender or sexual orientation (real or implied), gender traits or behavior (e.g., taunting someone for being too effeminate or too masculine), or teasing someone about their looks or behavior as it relates to sexual attractiveness.

It is often not the staff, but other participants who perpetrate bullying. However, it is a violation if a staff member knows or should have known of bullying behavior but takes no action to intervene on behalf of the targeted participant(s).

A participant or parent/guardian who participates in any act of bullying is subject to appropriate disciplinary action including but not limited to suspension, permanent ban, and referral to law enforcement authorities.

### **Difference between Mean, Rude, and Bullying Behavior**

Mean is defined as purposefully saying or doing something to hurt someone very infrequently. Rude is defined as inadvertently saying or doing something that hurts someone else. Bullying is defined as intentionally aggressive behavior repeated over time that involves an imbalance of power. Mean or rude conduct does not rise to the level of bullying absent the imbalance of power, but may otherwise be a code of conduct violations and treated as such.

Bullying does not include group or team behaviors to encourage a culture of team unity and/or harder training effort.

## **5. Harassment**

Harassment is a pattern of physical or nonphysical behaviors that cause annoyance, fear or humiliation; degrade or offend; reflect a discriminatory bias; or create a hostile environment for the purpose of creating superiority, dominance, or power over an individual participant or participants based on gender, gender identity, gender expression, sexual orientation, ethnicity, race, culture, national origin, race, or physical or mental disability. It also includes any conduct or acts defined as harassment under state or federal law.

Examples of prohibited harassment:

Name-calling, taunts, threats, belittling, stalking, unwelcome advances and requests for sexual acts, as well as undue threats to perform or succeed.

Sexual harassment is conduct towards a participant that includes sexual advances, requests for sexual favors, or other verbal or physical behaviors of a sexual nature and is sufficiently severe, persistent or pervasive and objectively offensive that it negatively affects an individual's performance.

## **6. Hazing**

Hazing includes any behavior which is physically harmful, humiliating, intimidating, or offensive. Hazing typically is an initiation activity that is a precondition for being socially accepted or joining a team. It also includes any act that is described as hazing under federal or state law.

Examples of hazing include:

- Using force or peer pressure to require the consumption of alcoholic beverages or illegal drugs
- Restraining a person through tying or taping
- Requiring simulations of acts of a sexual nature.
- Depriving one of sleep
- Withholding water and/or food
- Requiring public actions that are illegal, embarrassing, or socially unacceptable (e.g. public nudity)
- Paddling, branding, beating or other forms of physical assault
- Requiring excessive training

Hazing occurs even when the participant agrees to cooperate.

### **Willfully Tolerating Misconduct**

It is a violation when a staff member knows of prohibited misconduct but takes no action to intervene to protect participants or other staff members. It is also a violation to observe illegal and prohibited misconduct and not report it in a timely manner to the appropriate entity or law enforcement authorities.

### **Social Media and Electronic Communications**

Electronic communications and social media interactions between staff and participants and their parents/guardians is essential with regard to activities, schedules, and administrative issues. Furthermore, social media touting the positive aspects of competition and club promotion should be encouraged. However, the potential for misconduct exists including sexual abuse, emotional abuse, bullying, harassment, and hazing.

### **Social Media, including, Facebook, Twitter, Instagram, Snapchat, etc.**

The organization may create an official social media account which may connect with other staff, participants, and parents/guardians for the purpose of official organization communications about activities, motivation, team building, and answering posts from staff, participants, and parents/guardians.

Staff and minor participants should not connect on social media outside of the organization's official social media account.

### **Email, Texts, and Instant Messaging**

A staff member and minor participant may communicate via email, text, or instant message if the communication is about official organization activities. A parent/guardian of minor participants or another staff member should be copied on all such communications sent by a staff member.

### **Digital Photos and Videos**

Organizations frequently publish photos and videos of activities on their website and social media accounts, and transmit via email to various media outlets. Before publishing a photo or video of any participant, the organization should obtain an image release agreement signed by the parent/guardian. Also, all photos and videos should be taken in public view and should be appropriate and in the best interest of the participant and the organization.

Staff should immediately honor any request from parent/guardian to discontinue all digital communications or imagery with a minor participant without any repercussions.

Violations of the organization's electronic communications and social media policy should be reported to the MO or a board member for appropriate disciplinary action including but not limited to suspension, permanent suspension and/or referral to law enforcement.

### **Locker Rooms and Changing Areas**

Participants are particularly vulnerable to misconduct including bullying, harassment, and hazing in locker rooms/changing areas due to various stages of undress and less direct supervision. The organization should implement the following guidelines:

- Sufficient staff supervision that is not overbearing. Staff should always be located just outside of the room to be on call if a problem arises and should make periodic sweeps inside. The sweeps should be conducted by staff who are the same sex as the minor participants.



- Prohibit parents/guardians from entering unless it is truly necessary. In such cases, the parent/guardian should inform staff in advance and should be the same sex as the minor participants.
- Prohibit the use of all recording devices including smartphones.
- Comply with all misconduct rules.
- If a minor participant enters a bathroom/locker/changing during a competition, staff should be aware and check to that such minor participant returns within a reasonable time.

In the special case of co-ed locker rooms, male and female athletes should use separate changing areas. When separate areas are not available, the male and female participants should take turns using the areas.

## **Travel**

Travel to and from practices and competitions subject's participants to risk not only from auto accidents, but also makes them more vulnerable to misconduct, particularly during overnight stays. During overnight stays, participants are away from their families and support networks and find themselves in unfamiliar and less structured settings, such as locker/changing rooms, sports facilities, autos, and hotel rooms.

Local travel is not planned or supervised by the organization, but parent/guardian for each participant is responsible for making the travel arrangements. Local travel occurs when minor participants are driven to and from practices and local competitions, usually by parents/guardians in a carpool setting.

The guidelines for local travel are as follows:

- Drivers should have a valid driver's license, meet state insurance requirements, and operate a well-maintained vehicle in accordance with state laws.
- Staff drivers providing local transportation should not ride alone with an unrelated minor participant. There should be either at least two other participants or another adult in the vehicle at all times unless otherwise agreed to in writing by the parent/guardian of the participant.
- Staff drivers who are also the parents/guardians of a minor participant may provide shared transportation but should always pick up their own child first and drop him/her off last.
- Staff drivers should have the parent/guardian of participants sign a parental authorization and release form.

Team travel usually requires overnight stays and occurs when the team plans and supervises transportation for local, regional, national, or international competitions. For greater travel distances, staff and chaperones will often travel with the participants in order to provide adequate supervision. To follow are guidelines on team travel:

- All drivers should have a valid driver's license, meet state insurance requirements, and operate a well-maintained vehicle in accordance with state laws.
- Be sure to maintain appropriate adult-to-minor ratios, which will vary with the age of the participants.
- Hotels and air travel should be booked in advance with schedules published for all staff and parents/guardians.
- Participants should share rooms with 2 to 4 participants per room depending on room size. Participants should be grouped according to sex and age group.
- Attempts should be made to have one chaperone of the same sex for each group.

- No chaperone or other staff members should spend the night in the same room with any unrelated minor participants.
- Chaperones must be cleared by a criminal background check and undergo awareness training before having any appropriate one-on-one interactions with a minor participant.
- The organization should ask the hotel to block pay-per-view channels in the rooms of each participant.
- Meetings should not occur in rooms and a large room or suite should be rented so that staff can meet and socialize as a group with minor participants.
- Family members attending the event should be encouraged to stay in the same hotel as participants.

## **Staff and Chaperone Responsibilities**

- Brief participants and parents/guardians prior to travel on policy guidelines, expectations, and travel and competition schedules.
- Follow all policies on preventing misconduct including travel, locker/changing rooms, and two-deep leadership.
- Assist participants in preparing for competitions.
- Encourage minor participants to engage in daily communications with parent/guardian.
- Set curfews based on age and competition schedule.
- No use of alcohol or drugs by chaperones in the presence of minors and they should not be under the influence while performing duties.
- Chaperones should make sure that staff complies with all travel and other misconduct policies.
- Immediately report any violation of travel or misconduct policy to MO or a board member.
- Notify parent/guardian not traveling with the minor participant of any injuries, discipline problems, or any other concerns.

## **Reporting Misconduct**

### **Reporting Child Sexual and Child Physical Abuse**

Any staff member who has a reasonable suspicion of child sexual abuse or child physical abuse committed by another staff member or participant, must within 24 hours:

- 1) notify law enforcement authorities as required by state and federal law; and
- 2) notify the MO or a board member.

Under the Safe Sport Act, covered individuals must report suspicions of child abuse, including sexual abuse, within 24 hours to law enforcement. Failure to report may be a criminal violation under state and federal law. A covered individual is any adult who is authorized by an applicable amateur sports organization with a minor or amateur athlete.

The MO or a board member should separately report such allegations to the appropriate law enforcement authorities as required by state and federal law. Failure to report such misconduct may be a violation under state and/or federal law. Those making such reports may have civil and criminal immunity as long as the report was made in good faith. An attorney should be consulted prior to reporting for advice on currently applicable state and federal law.

Participants and parents are also encouraged to report any reasonable suspicions of child sexual and child physical abuse to the MO or a board member.

Resources for assistance with state and federal reporting requirements:

- Child Welfare Information Gateway: [www.childwelfare.gov](http://www.childwelfare.gov)
- Mandatory Reporters of Child Abuse and Neglect [http://www.childwelfare.gov/systemwide/laws\\_policies/statutes/manda.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/manda.cfm)
- State Statute Search: [http://www.childwelfare.gov/systemwide/laws\\_policies/state/](http://www.childwelfare.gov/systemwide/laws_policies/state/)

## **After Reporting to Law Enforcement**

After a report of reasonable suspicion of misconduct to law enforcement has been made, whether for reasons of child sexual abuse, child physical abuse, or other illegal reportable misconduct, the MO and/or MC should take the following actions:

- Do not engage in any internal investigations or attempt to investigate the credibility of any such allegation. An independent investigation may interfere with the investigation of law enforcement. Allow law enforcement to conduct its own investigation. However, the MO or MC member may ask a few clarifying questions of the complainant or minor(s) involved to adequately report the suspicion to law enforcement.
- To the extent permitted by law and appropriate, the MO, MC, and/or a board member should protect the names and confidentiality of the complainant (if requested), the accused, and the victims.
- Immediately remove the accused staff member from his/her duties. No hearing is required and the accused has no right to defend himself/herself at this point because the safety and wellbeing of the participant is of utmost importance. The MO may simply notify the accused staff member that he/she is no longer eligible to participate in the organization's activities.
- After consulting with legal counsel, the MO or MC may decide at their discretion to inform other staff members, parents, and participants of any child sexual abuse or child physical abuse allegations that law enforcement is actively investigating, in an effort to find out if there may be other cases of child abuse that should also be reported to law enforcement.
- Once the investigation by law enforcement has concluded, the MC may reconvene to determine whether or not the accused can be reinstated or reassigned. Even if the investigation is inconclusive, the MC may use its discretion in deciding on reinstatement or reassignment.

## **Reporting Other Misconduct, including Emotional Abuse, Bullying, Harassment, Hazing, or Grooming Behavior**

Any staff member, participant, or parent who has a reasonable suspicion of emotional abuse, bullying, harassment, hazing, or grooming behavior should report within 24 hours such misconduct to the MO or a board member. Depending on the severity and nature of the allegations, the MO and/or MC should determine whether to immediately report such allegation within 24 hours to the appropriate law enforcement authorities as required by state or federal law.

## **How to Report All Misconduct to the Organization**

Reports of all misconduct made to MO or to any board member may be made orally or in writing. The information required is the name of complainant(s) making the report, the type of misconduct alleged, the name(s) of the accused staff members who allegedly engaged in the misconduct, the approximate dates of misconduct, and any other relevant information.

## **Responding to Misconduct and Policy Violations**

Upon receiving a report of emotional abuse, bullying, harassment, hazing, or grooming behavior that is not reportable to law enforcement under state or federal law, the MO and/or MC should investigate and take appropriate action.

Factors to be considered in an investigation include the age of the alleged victim, the age of the alleged perpetrator, and the extent, nature, and scope of the allegations. Before taking any disciplinary action, the accused should have an opportunity to present his/her defense. If the accused is a staff member such as a coach, the board should be notified of the pending investigation. If the accused is a minor, his or her coach and parents should be notified in advance.

The confidentiality of the complaint, complainant, victim, and accused should be protected by the organization until the outcome of the proceedings is finalized. Notice should be given about any sanction. The investigator should not discuss the ongoing investigation with anyone other than for the purposes of gathering information related to the investigation unless requested otherwise by law enforcement or child protective services. Likewise, participants in the hearing should be requested to keep all information confidential unless requested by law enforcement or child protective services.

Sanctions applied should be appropriate and reasonable under the circumstances.

Sanctions that may be applied against a staff member:

- Referral to law enforcement authorities if a crime is believed to have been committed
- Dismissal in the event of extreme cases
- Temporary suspension.
- Reassignment of duties.
- Formal warning.
- Place under the supervision of another staff member.

Sanctions that may be applied against a participant:

- Revocation of membership or participation in competitions
- Suspension of membership or participation in competitions
- Verbal/written warning
- Provided additional education and guidance

## **Whistleblower Protection and Bad Faith Allegation**

Whistleblowers who report misconduct suspicions in good faith should be protected against any retaliation, punishment, and other harm regardless of the outcome of any investigation. To allow otherwise would defeat the purpose of the child abuse and misconduct risk management plan. Anyone who retaliates is subject to disciplinary action.

Likewise, complainants who act in bad faith in making malicious or frivolous allegations are subject to civil and criminal actions and disciplinary action by the organization.

## **Dealing with the Media**

In the event of media inquiries involving an allegation of misconduct, a single board member or attorney should be appointed as the sole media contact and any comment should be based on the following principles:

- The organization has notified the proper law enforcement authorities.
- The organization is following its internal policies and procedures regarding the allegation(s).
- The privacy of all involved individuals should be respected and protected throughout the proceedings.
- The identity of any accused perpetrator should not be disclosed unless 1) law enforcement is actively investigating and the name is a matter of public record; 2) law enforcement believes that

the accusation is likely valid; and 3) the organization has taken action to sanction or remove the alleged perpetrator.

## **Screening Volunteers**

The organization should select a criminal background check vendor that will run background checks and will assist in interpreting results and in compliance with state and federal laws.

The criminal background check vendor should, at a minimum, run records from all 50 states to include the National Criminal Database and the National Sex Offender Registry. In addition, the organization may choose to pay extra to purchase the following enhancements from the vendor: social security number verification, address trace, and manual local county courthouse check based on intelligent choice of counties.

*Note: See the Risk Management section at [www.sadlersports.com](http://www.sadlersports.com) for “Types of Background Checks on Volunteers” and “Criminal Background Check Vendors.”*

All staff with access to youth, including directors, officers, coaches, assistant coaches, managers, travel chaperones, concession workers, field maintenance, etc., should undergo a background check for acceptability prior to initial assignment of duties. Thereafter, a subsequent background check should be run every \_\_\_\_\_ year(s). *Note: options are every year, two years, or three years.*

*Note: Certain employees or independent contractors from outside the sports organization may have access to youth. An example would be a janitor employed by the facility owner. Steps should be taken to make sure that a background check has been run on these individuals by their employer.*

The MO should be responsible for implementing, monitoring, taking corrective action, disqualifying unfit candidates, and working with third-party background check vendors on all issues related to the criminal background check program. The MO should maintain confidentiality to protect against possible claims of slander or libel. The MO should work with third-party vendors for assistance in interpreting background check results; sending adverse action notifications required by law; and to protect against possible claims under the Fair Credit Reporting Act, First Offender Act, and all other state and federal laws protecting those who undergo criminal background checks.

## **Administration of Criminal Background Checks**

**Disqualification Criteria:** To make sure that all staff are treated fairly and consistently, the following disqualification criteria should be used:

Individual staff members found to be guilty of the following crimes should be disqualified as a staff member as outlined below.

- All sex offenses including child molestation, rape, sexual assault, sexual battery, sodomy, prostitution, solicitation, indecent exposure, etc.
- All felony violence including murder, manslaughter, aggravated assault, kidnapping, robbery, aggravated burglary, etc.
- Found guilty within the past 10 years of all felony offenses other than violence or sex including drug offenses, theft, embezzlement, fraud, child endangerment, etc.
- Found to be guilty within the past 7 years of all misdemeanor violence offenses including simple assault, battery, domestic violence, hit & run, etc.
- Found guilty within the past 5 years of misdemeanor drug and alcohol offenses (or multiple offenses in the past 10 years) including driving under the influence, simple drug possession, drunk and disorderly, public intoxication, possession of drug paraphernalia, etc.

- Any other misdemeanor within the past 5 years that would be considered a potential danger to children or is directly related to the functions of the staff member, including contributing to the delinquency of a minor, providing alcohol to a minor, theft (if the volunteer is handling funds), etc.

Guilty means the applicant was found guilty following a trial, entered a guilty plea, entered a no contest plea accompanied by the court's finding of guilty, regardless of whether there was an adjudication of guilt (conviction) or a withholding of guilt. This policy does not apply if criminal charges resulted in acquittal, dismissal or in an entry of *nolle prosequi*.

Should any of the pending charges described above be uncovered, or should any of the above charges be brought against an applicant during the season, the applicant should be suspended from serving until the charges are cleared or dropped and the MO approves reinstatement.

*Note: These disqualification criteria are provided courtesy of Southeast Security Consultants, Inc. You may customize your own criteria to meet your specific needs. Another excellent, local source would be the disqualification criteria used by your local school board.*

**Staff Applications:** Prior to the running of any criminal background check, the applicant should complete a staff application form giving his or her consent to the running of such check. This form should include a question about the existence of any prior criminal convictions and pending investigations. A "yes" answer should require a detailed explanation including the type of offense, locations, and dates. (Note: some background check vendors require the applicant to directly enter their own application information directly into the vendor's website.)

The information obtained in the staff application/consent form, as well as the results of criminal background checks, should be held in strict confidence to protect the confidentiality of the information. It should be kept in a secure location with access by the MO or MC only. Confidential information should not be disclosed outside of the organization and should only be shared within the organization on a need-to-know basis. However, under certain circumstances, the organization may have a legal duty to disclose certain types of information to government agencies or law enforcement.

**Run Criminal Background Check:** After collecting the staff application/consent forms, the MO should verify that they are complete and legible. Next, the applications or information therein should be forwarded to the selected criminal background vendor. (Note: some background check vendors require the applicants to directly enter their own information into the vendor's website.)

**Results:** The results from the criminal background check vendor should be received by the MO. The MO may need the assistance of the vendor in interpreting the results against the predetermined disqualification criteria. In addition, the MO should ask the vendor about any applicable first-offender acts in a particular state that may disallow the use of the results in making a disqualification decision. All disqualified applicants should be provided with the following documents with the assistance of the background check vendor:

- 1) Fair Credit Reporting Act: Summary of Rights
- 2) Letter of disqualification
- 3) Copy of the criminal background check results.

The vendor should advise if there are any other requirements under state or federal law.

**Appeals Process:** Staff candidates disqualified due to an unsatisfactory criminal background check should be given a right to appeal if they notify the MO in writing. Such appeals should be heard by a three-person MC. The MC should decide whether to uphold the decision of the MO. As a compromise, the MC may decide to reassign the applicant to a more appropriate position or to place

the candidate under a probationary period. The results of all criminal background checks and appeals should be kept confidential.

The written appeal should include:

- Full name and address of the appellant
- Full name and address of any person making the request for an appeal on behalf of the appellant
- The grounds for the appeal, providing a detailed explanation of the appellant's objections to the decision, additional facts, or factual errors in the decision
- The relevant particulars to the appeal, providing any background facts relating to the appeal, including how the appellant is affected by the decision and a detailed description of the requested relief (i.e. what appellant wants the MC to do)
- The signature of the appellant or the appellant's representative, and the date of the appeal.

## **Monitoring and Supervision Compliance**

The organization and its MO and MC should monitor and supervise the implementation and compliance of the child abuse and misconduct plan as follows:

- Require all staff to review this risk management plan and agree to abide by its guidelines and requirements.
- Require all staff having repeated access to youth to undergo and pass a criminal background check.
- Promptly address any reports of child abuse or other misconduct and take appropriate action.
- Observe and periodically spot check compliance with interactions at practice and games, locker/changing rooms, travel arrangements, and social media.
- Stay in touch with staff members, participants and parents to learn of any potential instances of misconduct.

## **Child Abuse Training for Minors**

The Safe Sport Act requires sports organizations to provide minor training on preventing and reporting of child abuse. Our organization should distribute documents entitled "[Minor Training Ages 4-12](#) or [Minor Training Ages 13-17](#)" or a similar document from another source to each parent with a strong recommendation that each parent should review this document with their minor child.

## **Distribution/Acknowledgment/Documentation**

A hard or electronic copy of this risk management program should be distributed to each staff member prior to the start of every season. Each staff member should acknowledge in writing (print or electronic signature) that they have received and carefully reviewed the plan and that they will refrain from engaging in misconduct and will comply with the policies within this plan. The organization should maintain documentation on an annual basis that the plan was distributed and as staff agreement signatures collected.

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Sources:

- U.S. Center for SafeSport; SafeSport Code for the U.S. Olympic and Paralympic Movement; 12-28-2017
- U.S. Center for SafeSport; Practices and Procedures; 3-3-2017
- SafeSport Program Handbook; U.S. Figure Skating; 1-1-2018
- USA Basketball SafeSport Program Handbook; 11-9-2017
- Model Youth Football Safe Sport Policy; USA Football; 2-20-2015

**DISCLAIMER: THIS SAMPLE RISK MANAGEMENT PLAN IS MEANT TO PROVIDE GENERAL AWARENESS AND EDUCATION ON THE TOPIC OF MISCONDUCT IN SPORT AND SUGGESTED POLICIES COMPILED FROM VARIOUS RESOURCES AND IN NO WAY IS MEANT TO BE ALL-ENCOMPASSING. THIS SAMPLE PLAN MAY CONTAIN INCORRECT INFORMATION AND MAY OMIT CRITICAL INFORMATION. SPORTS ORGANIZATIONS SHOULD INDEPENDENTLY RESEARCH VARIOUS AUTHORITY SOURCES SUCH AS U.S. CENTER FOR SAFESPORT BEFORE CUSTOMIZING THEIR OWN PLAN. NO SPECIFIC ADVICE IS BEING PROVIDED FOR ANY ORGANIZATION. NO LEGAL ADVICE IS PROVIDED. THE LAW PERTAINING TO CHILD ABUSE AND OTHER MISCONDUCT VARY FROM STATE TO STATE. ALWAYS CONTACT A LOCAL ATTORNEY FOR LEGAL ADVICE IN YOUR STATE. SADLER & COMPANY, INC. DBA SADLER SPORTS & RECREATION INSURANCE AND DIXIE SOFTBALL, INC. DISCLAIM ANY AND ALL LIABILITY RESULTING FROM THE PUBLICATION OF THIS SAMPLE AWARENESS AND EDUCATIONAL RISK MANAGEMENT PLAN. IN EXCHANGE FOR RECEIPT OF THIS INFORMATION, RECIPIENT AGREES TO HOLD HARMLESS AND INDEMNIFY SADLER & COMPANY, INC. DBA SADLER SPORTS & RECREATION INSURANCE AND DIXIE SOFTBALL, INC. AND RESPECTIVE DIRECTORS, OFFICERS, AND EMPLOYEES FOR ANY CLAIMS OF BODILY INJURY, PROPERTY DAMAGE, OR OTHER DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, TO THEMSELVES OR THIRD PARTIES.**

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