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Changes to protect young athletes keep them safe, but at what price

The Aug. 20 Daily Law Bulletin introduced the congressional response to the wake of sex abuse scandals in gymnastics, swimming, equestrian and other sports. The SafeSport Act was signed into law by President Donald Trump on Feb. 14, 2018, expanding existing mandatory reporting requirements for all sport organizations promoting an environment safe from physical and emotional abuse for all athletes, especially minors.

The U.S. Center for SafeSport, an independent agency that has issued 285 lifetime bans overall across 50 sports, was tasked with investigating and judging claims of sexual abuse in Olympic sports.

Sport leadership sees SafeSport as a necessary requirement to protect young athletes in their respective organizations. Bill Moroney, the U.S. Equestrian chief executive says that the vast majority of his organization supports the SafeSport-implemented policies. Change is difficult, but SafeSport is non-negotiable.

Shield becomes a sword

Many coaches and trainers are concerned, however, that the SafeSport process could be used as a sword, rather than a shield, to devastate successful professionals, or even accomplished

amateur athletes, with false claims to gain a competitive edge. Like any other industry wrought with malevolent individuals making progress difficult for law abiding participants, sports are saddled with players using malicious means to gain strides over the competition.

With the fear of guilty until proven innocent, one can imagine a second-place finisher's false claim of sexual misconduct against the first-place competitor, or a minor's threat of mental abuse against a coach if not placed on the team or even a trainer if he does not stop trying to collect his unpaid bill.

The manner in which the SafeSport investigations are conducted and the expediency with which investigation results are publicly posted, the resulting exposure to false claims, even if rare, is driving some to consider leaving the authority of their national governing bodies for their own personal and professional safety. False reporting is a violation of the SafeSport Code and is investigated accordingly, but those threatening to flee do not trust the process.

The expressed fear of lack of due process was recently fueled by the suicide in June of longtime equestrian rider and coach Rob Gage. Gage was banned from sanctioned-



YVONNE C. OCRANT

YVONNE C. OCRANT is a partner with Hinsshaw & Culbertson LLP with a focus on equine law. She presents and publishes extensively on equine law issues, litigates equine matters, mediates equine disputes, and drafts equine industry contracts and liability releases.

equestrian events for life by SafeSport in February.

SafeSport found that Gage had engaged in sexual misconduct involving multiple minors decades earlier with no recent allegations of wrongdoing. Critics said it was proof that the organization can ruin a man's life without sufficient due process to fight the charges.

In response, SafeSport noted Gage "had multiple opportunities to provide information and evidence as part of a robust investigative process." As for the timing, SafeSport noted that it does not have a statute of limita-

tions. "We disagree with those who seek to invalidate abuse that occurred many years ago. To change the culture of sport, individuals must be held accountable for their behavior, regardless of how long ago it occurred," an organization statement said.

SafeSport reports that it resolves cases through a formal process that includes trained investigators and sometimes interim suspensions, if deemed necessary, before a final decision is made, such as issuing lifetime bans.

People accused of abuse are informed of the identity of accusers and have the right to offer witnesses, evidence and appeal sanctions. The specifics of any case remain permanently confidential from the public to protect the accusers and encourage reporting.

In another case, Luis Felipe Rodriguez, a Minnesota horseback riding instructor, was charged in criminal court in 2015 with improperly touching a teen student.

Rodriguez was acquitted in a jury trial in 2017. However, SafeSport permanently banned him in July 2018, subject to appeal. His attorney said he believes his client was banned despite his acquittal because of a "Salem witch trial environment" in Olympic sports after the sex

abuse scandal in gymnastics involving Larry Nassar, who pleaded guilty to molesting girls and women.

His attorney commented: “[SafeSport] decided it was a whole lot safer to ban people who were accused of sexual abuse than to risk the possibility there might be somebody else out there like (Nassar).” Rodriguez challenged SafeSport’s decision and recently was taken off the banned list after his attorney sent a transcript of the trial to the agency, something costing Rodriguez about \$5,000.

SafeSport has banned many other coaches after they were convicted in criminal court, but has the authority to issue sanctions according to evidence against those who are not charged or convicted.

It also can issue sanctions for violations that are not crimes, such as with sexual harassment. Similarly, in the NFL, the league installed new rules in recent years designed to crack down on domestic violence after a rash of cases involving players.

Bullied by the mandate

While the SafeSport initiative is overdue and protecting athletes from physical and mental abuse is undeniably necessary, many affected by the mandated policies express a sense of bullying by SafeSport itself.

Effective June 1, SafeSport instituted new policies aimed at limiting one-on-one interactions and electronic communications between coaches or trainers and minors, helping reduce opportunities for abuse.

Trainers and coaches cannot text, talk on the phone or otherwise communicate electronically with a minor without including another adult. This includes texting a lesson time, reporting one is running late, requesting assistance with equipment or reporting a competition score.

Individual training sessions must be observable and interruptible. This includes one-on-one pep talks, post-competition evaluations and lesson scheduling meetings. Trainers, coaches and any other applicable adult cannot travel alone with a minor

including going to lunch, traveling to an event or a lesson, or, presumably, getting a ride to the hospital in the event of an injury.

This change has triggered yet more angst in the equestrian community.

In equestrian sports, for example, trainers and coaches are afraid to effectively demonstrate proper leg aids which require physically moving a rider’s leg into the proper position in the saddle.

Training facilities which previously welcomed minor athletes to reside on the property for months of intense training as working students during the winter season in Florida terminated this valuable opportunity at the risk of unintentional SafeSport violations. Coaches question how they are able to walk courses with a minor competitor if they are alone in the arena without violating SafeSport.

Protections in place

Those in fear of false claims and those burdened by new protocol raise legitimate concerns. However,

SafeSport does provide safeguards to encourage trainers and coaches to implement these changes rather than leave their profession or deny minor athletes the benefits of their training.

For example, consent forms may be signed by a parent or legal guardian of a minor permitting individual training sessions which are not observable or interruptible, permitting traveling alone and permitting extended stays at a training facility for authorized periods of time.

Trainers may consider becoming the legal guardian of the minor athlete so they are not required to obtain this permission. Trainers are cautioned, however, that the unintended consequence of false claims in these otherwise permissible situations remains.

Trainers should always leave a door or a window open for all meetings and consider installing security cameras which may provide valuable evidence to counter an otherwise false claim of inappropriate physical contact.