

## **SECTION VII: RESPONDING TO ALLEGATIONS OF ABUSE AND OTHER MISCONDUCT**

In response to allegations of abuse or misconduct, the following procedures and guidelines shall apply. By following these procedures, USA Basketball can provide a fair and reasonable process for handling reports of abuse by members.

**In this policy on Responding to Abuse and Other Misconduct is:**

- USA Basketball's procedures to investigate and conduct appropriate disciplinary proceedings following reports of suspicions or allegations of abuse or misconduct, or, in appropriate cases, to refer such matters to the U.S. Center for Safe Sport and/or law enforcement;
- The importance of maintaining confidentiality with respect to the complaint, complainant, victim, accused, and other information related to the report and incident(s) until "notice" is given about a suspension or the outcome of any proceeding(s);
- The circumstances in which an emergency hearing is appropriate and the procedures following an emergency suspension; and
- A general summary of the procedures for a full hearing, including sanctions that may be issued by a Hearing Panel.

### **INVESTIGATION AND/OR DISCIPLINARY PROCEEDINGS**

Upon a report or other notice of credible information or allegations that a person who may be subject to the jurisdiction of USA Basketball: (1) may have engaged in actual or suspected child physical or sexual abuse; (2) may have violated any of the Sexual Misconduct, Physical Misconduct, Emotional Misconduct and Harassment , or Hazing Policies; or (3) may have violated any of the provisions of this Handbook or the *Code*, USA Basketball shall conduct an investigation and/or disciplinary proceedings, where applicable, to determine the appropriate discipline that may be imposed.

Notice or allegations which involve misconduct within the exclusive jurisdiction of the U.S. Center for SafeSport, specifically: (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, USA Basketball shall refer the matter to the U.S. Center for SafeSport. USA Basketball will also report matters involving child abuse or neglect to the U.S. Center for SafeSport.

Any investigation shall be overseen by USA Basketball's Participant and Athlete Safety Response Team (PART). PART shall be comprised of the following individuals: USA Basketball's SafeSport Director, USA Basketball's Chief Financial Officer, and one (1) or more USA Basketball Staff Members as designated by the CEO or their representative.

**Notwithstanding the foregoing, 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. USA Basketball will generally comply with reasonable written requests from law enforcement to suspend or refrain from investigating Handbook violations, pending law enforcement investigation(s) or action, to the extent such requests would not impede USA Basketball from protecting the health and safety of its participants. Further, USA Basketball shall not conduct any investigation or hearing procedure in response to allegations of child physical or sexual abuse, pursuant to the Center's exclusive jurisdiction, unless and as directed by the Center.**

USA Basketball recognizes that there are varying levels of misconduct. In all cases, USA Basketball's disciplinary procedures and actions shall be proportionate and reasonable; provided, however, that USA Basketball shall mirror and enforce any sanction or decision levied by the Center, whether permanent or temporary.

Similarly, depending on the nature of the incident reported, an investigation may or may not be conducted, and the extent of that investigation may likewise vary. Some cases may require extensive interviews, while others may, on their face, may require no investigation and a simple warning.

**However, USA Basketball will address any allegations of misconduct and impose discipline against its staff members in accordance with its employment policies and procedures and other documents governing the employment.**

### **IMPORTANCE OF CONFIDENTIALITY**

The substance of any investigation and/or disciplinary proceedings must be kept confidential until a final decision has been rendered, to the greatest extent possible. An investigator shall not discuss the investigation with anyone except for the purposes of conducting the investigation, and except as requested by law enforcement or child protection authorities or the Center. Hearings should be closed and confidential, to the extent possible, other than for notification of the outcome.

Participants in the hearing, including the Hearing Panel, alleged offender, USA Basketball representative, victim, and any witnesses, may be asked to keep the proceedings confidential, except as requested by law enforcement or child protection authorities or the Center. The hearing panel shall only discuss the proceedings, including testimony and other evidence presented, amongst themselves and shall deliberate among themselves to reach a decision.

## **EMERGENCY HEARINGS**

Upon receipt of a credible and reasonably substantiated allegation of misconduct and when such allegation suggests that the accused individual's continued participation with USA Basketball poses a risk of ongoing harm to athlete(s) or other participants, PART may submit a grievance and request for emergency hearing to USA Basketball's SafeSport Hearing Panel, after determining appropriate temporary measures in accordance with USA Basketball's policies and procedures concerning the same.

USA Basketball's SafeSport Hearing Panel shall include at least 20% athlete representation, as required by the USOC, to determine whether to uphold the temporary measures suggested by PART be upheld pending the outcome of a full hearing before the Hearing Panel.

A panel of three from the SafeSport Hearing Panel shall be convened, which Panel shall include at least 20% athlete representation, as required by the USOC. If an emergency hearing is ordered, the Hearing Panel shall conduct the hearing and publish its results within twenty-one (21) days. Until such time as the Hearing Panel makes a decision, the substance of all proceedings shall be confidential and not subject to disclosure to anyone other than the parties to the hearing and the witnesses.

For the purposes of this Policy, a suspension from involvement in USA Basketball shall mean that, for the duration of the period of suspension, the accused individual may not participate in any capacity or in any role in the activities or affairs of USA Basketball.

## **FULL HEARINGS**

It is recognized that not all discipline necessarily requires a hearing. There may be discipline imposed for minor violations where a reprimand, training or other sanction may be imposed, and a hearing would not be necessary. However, in cases where USA Basketball seeks to suspend or otherwise limit an individual's opportunity to participate in the activities or affairs of USA Basketball, USA Basketball shall provide notice to such individual of the allegations made and offer such individual a hearing on the allegations. If the individual chooses a hearing, a panel of three from the SafeSport Hearing Panel will conduct a hearing to determine whether the accused individual violated provisions of this Handbook, including its Sexual Misconduct, Physical Misconduct, Emotional Misconduct and Harassment, Bullying, and/or Hazing Policies. The Panel shall include at least 20% athlete representation, as required by the USOC

The accused individual shall have the right to: (1) receive written notice of the allegations, including a statement of the allegations; (2) present relevant information to the Hearing Panel; and (3) be represented by legal counsel (at the party's own expense).

In connection with any hearing the accused individual must be given a reasonable opportunity to respond to the allegations brought forward. This may or may not include cross examination of the victim.

A hearing date shall be scheduled no more than 90 days and no fewer than 30 days after notice has been issued, unless modified, as appropriate, by the Hearing Panel, or at the request of either party and as approved in the discretion of the Hearing Panel.

Notice of the allegation and hearing shall be provided via certified mail, return receipt requested, and email, to the individual's address and email address on file with USA Basketball. The individual shall have ten (10) days to respond, either accepting the proposed sanction, or requesting a hearing.

The hearing shall be closed and confidential, to the extent possible, other than for notification of the outcome.

## **FINDINGS AND SANCTIONS**

The Hearing Panel has the discretion to impose sanctions on the accused individual if it finds that the accused individual has violated this Handbook, including its Sexual Misconduct, Physical Misconduct, Emotional Misconduct and Harassment, Bullying, and/ or Hazing Policies based on a preponderance of the evidence.

The Hearing Panel will communicate its findings in writing to the parties. Any sanctions imposed by the Hearing Panel must be proportionate and reasonable, relative to the findings and conclusions of the panel as to what has occurred. The decision regarding the appropriate disciplinary action shall be up to the Hearing Panel deciding each complaint. Appropriate discipline may range from a warning and a reprimand to suspension from involvement in USA Basketball for a period of time or permanently.

Either party shall have a right to appeal the Hearing Panel's decision. A notice of appeal, which shall include the basis of the party's appeal, and a \$300 filing fee must be delivered to the Board of Directors within ten (10) days of the issuance of the written decision from the Hearing Panel.

For appeals of decisions of USA Basketball's SafeSport Hearing Panel, the Board of Directors shall appoint a panel of three from its members for the SafeSport Appeal Panel, which Panel shall include at least 20% athlete representation, as required by the USOC.

Any appeal shall take place "on the papers," meaning that the SafeSport Appeal Panel shall consider only the record and documents from the hearing below, and the appeal briefs of the parties.

The appellee shall have the opportunity to file a response, and the appellant a reply. In total, three briefs (the appeal, the response, and the reply) shall be submitted to the SafeSport Appeal panel, along with the record below.

USA Basketball will mirror and enforce any sanction imposed by the U.S. Center for SafeSport, whether permanent or temporary. Sanctions imposed by the Center shall be appealed against the Center, pursuant to the Center's policies and procedures, and not through the appeal procedures detailed in this section.

## **CONFLICT OF INTEREST**

USA Basketball is committed to creating a safe and mutually respectful environment, which promotes the rights, well-being and protection of all participants. Information contained in this document allow USA Basketball to provide prompt, impartial and fair action when a complaint or allegation is made. Accordingly, investigations, disciplinary proceedings, and grievance procedures shall be materially free of bias and conflicts of interest. Allegations of abuse or misconduct that fall outside of the jurisdiction of the U.S. Center for SafeSport shall be reviewed in accordance with the procedures outlined in this section.

Members of PART and USA Basketball's Hearing Panel shall not individually or on behalf of any family member, employer or other entity, engage in any interest, activity, ownership, employment, whether direct or indirect, paid or unpaid, which conflicts or appears to conflict with their responsibility to render a determination regarding a Covered Individual's fitness for participation. PART and Hearing Panel members should notify USA Basketball in writing, before engaging in any activity that creates a potential conflict of interest. Panel members must recuse themselves upon discovery of any potential conflict of interest, whether potential or realized.

Covered Individuals who are subject to disciplinary action, except in the case of an Emergency Hearing, where immediate action is needed to ensure the safety and well-being of participants, may object to the composition of the Hearing Panel or the disciplinary action imposed on the basis of conflict of interest or bias. The Covered Individual must submit their objection at least ten (10) days prior to any disciplinary hearing and no later than ten (10) days after any decision is rendered. Any objection must contain: (1) the conflict of interest or bias alleged; (2) the individual(s) with alleged conflict of interest or bias; and (3) Covered Individual's election to continue with hearing despite conflict of interest, dismiss individual with alleged conflict of interest and continue with hearing, or request review by disinterested individual.

Covered Individuals may not object to disciplinary action imposed if an objection on the basis of conflict of interest or bias was submitted prior to their respective disciplinary hearing. However, Covered Individuals reserve all rights and remedies available to them at law and in equity.