



# **BORDERS COMMISSION**

An Independent Panel Chartered by the USOPC

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Final Report  
July 2019











UNITED STATES OF AMERICA







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**BORDERS COMMISSION**  
**An Independent Panel Chartered by**  
**The United States Olympic and Paralympic Committee**

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A young woman with dark hair, wearing a dark blue USA Olympic jacket with a medal around her neck, has her right hand raised in a victory gesture. The background is a solid blue color. The text 'EXECUTIVE SUMMARY GLOSSARY' is overlaid in white, bold, uppercase letters, with a thin orange horizontal line below it.

# EXECUTIVE SUMMARY GLOSSARY

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**BORDERS COMMISSION**  
**An Independent Panel Chartered by**  
**The United States Olympic and Paralympic Committee**

**EXECUTIVE SUMMARY GLOSSARY**  
(alphabetical)

<b>AAC</b>	<b>Athletes' Advisory Council</b>
<b>CCO</b>	<b>Chief Compliance Officer</b>
<b>CEO</b>	<b>Chief Executive Officer</b>
<b>IOC</b>	<b>International Olympic Committee</b>
<b>NGB</b>	<b>National Governing Body</b>
<b>TSA</b>	<b>Ted Stevens Olympic and Amateur Sports Act</b>
<b>USADA</b>	<b>United States Anti-Doping Agency</b>
<b>USOPA</b>	<b>United States Olympians and Paralympians Association</b>
<b>USOPC</b>	<b>United States Olympic and Paralympic Committee</b>





# EXECUTIVE SUMMARY

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**BORDERS COMMISSION FINAL REPORT  
EXECUTIVE SUMMARY  
JULY 2019**

Background. The criminal acts perpetrated by Larry Nassar on so many girls and women, most of whom were gymnastics athletes, launched a number of investigations and hearings to determine how and why this could have happened. They included an independent investigation commissioned by the USOPC Board of Directors conducted by the international law firm of Ropes & Gray and Congressional hearings convened by the House Energy and Commerce Committee as well as the Senate Commerce Committee. Ropes & Gray and the House Energy and Commerce Committee published reports in December 2018 and collectively identified numerous problems requiring the USOPC's immediate and deliberate attention to fix systemic deficiencies, institutional failures and cultural problems in the USOPC and certain NGBs. However, neither report made specific recommendations on how to best fix these deficiencies, failures and problems.

The Borders Commission. The USOPC Board began taking steps in response to this crisis prior to the publication of these independent reports, including fomenting the creation and initial funding of the independent US Center for SafeSport to handle athlete abuse and requiring NGBs and the USOPC to abide by its processes and determinations. But this crisis also exposed other fundamental and festering problems in the USOPC and NGBs. In September 2018, the USOPC created another independent commission to consider and recommend appropriate and specific changes in the USOPC's role and engagement with athletes and its responsibilities and oversight over, and engagement with, NGBs. This commission, popularly referred to as the "Borders Commission", is composed of its Chair, Lisa Borders, former President of the WNBA, and eight other members, including four current or former elite athletes, Olympians or Paralympians and youth sport and NGB representatives. The Commission also retained an independent counsel.

The publication of this Final Report represents the culmination of nine months of work by the Commission. This independent group first had to embark on an educational process



for its Commissioners to learn about the USOPC's current programs, policies and structure. The Commission received and discussed at length the Ropes & Gray and the Congressional reports. The Commission also received documents concerning the TSA and the institutional history of the USOPC, including reports from previous USOPC or Congressionally-mandated commissions that had reviewed the USOPC's structure. All told, the Commission received and archived thousands of pages of relevant documents. The Commission and/or its independent counsel interviewed sixty-two diverse persons, including many current and former athletes and former USOPC and NGB leaders. It also received written submissions. The Commission tried to interview all of the most outspoken critics of the USOPC and NGBs. Most of the interviewees requested confidentiality out of fear of possible retaliation for assisting the Commission, highlighting their lack of trust in the USOPC and/or NGBs. Despite the diversity of the interviewees, their concerns and recommendations were remarkably consistent and most of them were still hopeful and passionate about the Olympic Movement in the United States.

**The Commission's Recommendations.** The USOPC has taken a too limited and narrow view of its role and responsibilities - going forward they must be broader. Recommendations set out in this Final Report not only strive to repair a broken, dysfunctional system that facilitated the abuse of athletes, but also has underserved them and many of their NGBs in their efforts to achieve competitive success at an elite level. Underpinning these Recommendations is the theme that athletes, their well-being throughout their lifecycle including competitive performance and beyond, must be at the center of all USOPC and NGB efforts. Prioritizing the protection, service and advancement of athletes is expected to enable successful competitions manifested through earned medals as well as healthy athletes upon and during retirement. Certain Recommendations relate not only to the USOPC's greater responsibility over NGBs but also the USOPC's need to assist them. Brief highlights of the Recommendations are set forth below. The Commission notes that SafeSport, a critical component of athlete protection, and USADA are beyond its purview.

**Which Athletes?** The "Athletes" to be protected, served and advanced must be better identified and encompass the following: currently competing elite athletes (including

when they are injured or otherwise temporarily unable to compete), athletes who are in the “pipeline” to become the next elite athletes and retired elite athletes. The NGBs and Paralympic equivalent, with review by the USOPC, must select the Athletes in each such category.

**Better Governance.** The USOPC Board of Directors must be reconstituted. Board composition should represent a mosaic of expertise and experience to ensure optimal decisions are made based on a diverse set of perspectives. Independent directors remain an important component but need not be a majority: five independent directors must be proposed by a nominating and governance committee and elected by the Board. The AAC must directly elect and re-elect three members who satisfy the criteria for being an AAC member (which should include the Chair of the AAC and a Paralympic athlete). USOPA, acting in consultation with the AAC, must directly elect and re-elect two members who must satisfy the criteria for being an AAC member but for the 10-year rule. The NGBs must directly elect and re-elect three members. Finally, per the IOC charter, the IOC members in the US must be members. Special and on-going training must be provided to Board members with respect to the institutional history of the USOPC, the model of Olympic sport in the US and the roles and obligations of Board members, especially with respect to a proper explanation of their fiduciary duties to the USOPC, its stakeholders and other interested parties.

**Voice of the athletes.** Athletes once had a “huge voice” and “significant presence” in the decisions and operations of the USOPC through the AAC. In addition to direct elections/re-elections to the Board and continuing the valuable working relationship between the AAC and USOPA, other steps must be taken to regain this voice and presence. Each USOPC committee, working group and task force must be comprised of at least 20% Athletes selected by the AAC and/or the USOPA. The AAC must receive dedicated, unencumbered financial support from the USOPC, including funds to hire administrative employees reporting to the AAC and have control over its own budget. Other examples detailed in this Final Report include: the Board’s control of AAC bylaws must be relinquished so long as such bylaws comply with the USOPC bylaws and the TSA; the criteria to be an



AAC member must be focused on elite athletes in major competitions but not be determined by funding vehicles such as Operation Gold events; the AAC representatives selected to the Games must again have meaningful roles with the Ombudsman to assist Athletes; and each NGB must be required to have an athletes' council, and the leadership of those councils and the AAC must meet on a periodic basis. The Commission also heard compelling examples of the merits of using these NGB athletes' councils, or even the AAC, subject always to proper conflicts of interest procedures, to hear and decide first instance athlete code of conduct violations.

**Athlete Support and Service.** The USOPC can and must provide better support and services for Athletes, although the Commission recognizes that the levels or types of such will vary for each Athlete category. The USOPC can and must expand and simplify its limited and byzantine athlete healthcare - including mental healthcare - and insurance program for Athletes, and an expert panel must be constituted to do so. The USOPC must improve the educational programs (both in university and trade programs) and career training (including via USOPC, NGB and third-party internship programs as well as the private sector) offered to Athletes to prepare those who opt in for their post-competitive careers. The USOPC must ensure that Athletes, especially those recently retired, have access to proper professional mental health services, notably for depression. The USOPC must establish some program of minimal financial support directly to Athletes, although the Commission realizes that any significant source of such funds must be creatively sourced beyond the current means. Finally, the Commission notes that many interviewed athletes did not know of the services and support currently available to them: although this should be remedied in part by a reemergent AAC, the USOPC should review its current communication process and create a "secure, one-stop shop" Microsite where all such services and support information would reside and be routinely refreshed.

**Dispute Resolution.** The Commission received in-depth comments with respect to disputes concerning the right to compete and NGB compliance. The USOPC's prior inactivity on these matters has caused athletes and others to have to act as "private attorneys general". The USOPC must change this mentality with the goal of reducing the number of

these complaints and instituting changes to enhance the efficiency and fairness of the dispute resolution process. Implementation of the Recommendations should lead to a reduction of compliance complaints. With respect to the right to compete, the USOPC already has recognized that its existing system for approving team selection procedures is broken. Although, the primary responsibility for team selection must be with the NGB, the USOPC's realization that its focus is too narrow, and it needs to improve its pro-active expert questioning and approval process should reduce right to compete complaints. The role of the Ombudsmen as a source of information and vehicle to solve complaints and defuse disputes remains important but the Ombudsman is overwhelmed and needs clear guidance that they can move to dispute resolution when necessary. A pro bono lawyer program has informally existed and is being formalized, but it must be established. Arbitration must remain the cornerstone for USOPC and NGB dispute resolution. However, the current system has become too expensive and inept; if the TSA anointed tribunal will not make necessary changes, then it should be replaced. The detailed Recommendations in this area will increase the efficacy and efficiency of dispute resolution by, inter alia: for compliance disputes deleting the mandatory NGB exhaustion of remedies and the internal USOPC hearing, replacing them with an expedited mandatory settlement conference and the use of the Compliance Committee as a peer review resource and for all disputes formalizing a process by which the USOPC must decide, and be held accountable for, whether or not it is appropriate to "take over" the dispute for a claimant and require arbitrators to award legal fees to a party if certain conditions are met. Finally, given the USOPC's increased responsibilities in these areas, the USOPC's law firm must not be allowed to represent any party other than the USOPC in any compliance or right to compete dispute.

**NGB Support.** The USOPC's current NGB funding paradigm must change. These 50 organizations range from small and struggling to large and with substantial resources; and, they have different levels of sophistication and professionalization. They not only need oversight, but also assistance. The USOPC must go beyond only providing funds for Athletes and NGBs that the USOPC deems likely to win medals in the next Games. Although



maintaining such programs is important, other funding and support (e.g., access to Olympic Training Centers) programs must be offered to NGBs based on the USOPC's acceptance of an NGB's strategic plan and high-performance plan and its performance in accordance with such plans. This would include some level of pipeline development for NGBs that do not have scholastic or club feeder programs. The USOPC must offer a suite of shared services for NGBs who opt or need to use them. The USOPC already provides some such services, but many other basic services should be provided at cost, e.g. legal, SafeSport compliance, handling cases beyond SafeSport purview. Each NGB, based on financial need, must be able to apply for and receive a set stipend to help it meet its basic organizational costs, especially considering its increased compliance costs. However, in each case, all funding should be subject to, and a condition of, the USOPC's satisfactory financial audit and compliance certification of an NGB.

**Certification of NGBs.** The USOPC must move beyond "recognizing" NGBs. A list of NGB requirements already exists in some manner but must be formalized as a comprehensive set of certification requirements and explicitly cover Athlete protection, requisite compliance and agreed good governance practices. In addition to the USOPC's current financial program audits of NGBs, the USOPC must undertake biennial compliance audits against the certification requirements. In response to any deficiencies, a range of corrective steps and penalties must be formulated and available to and monitored by the USOPC, culminating in decertification of the NGB (with the USOPC stepping in to support the NGB's Athletes). This must be a transparent process.

**CCO, Compliance Committee, Whistleblower Policy.** The USOPC must appoint a Chief Compliance Officer who should be given broad and primary authority and responsibility for overseeing USOPC compliance with its internal policies and procedures and the TSA, SafeSport and all applicable laws, as well as NGB compliance with their certification, SafeSport and USADA and any required corrective steps or penalties. The USOPC must create a Compliance Committee to provide direction and guidance to the CCO. It will be an expert body in both sport and governance and be comprised of, inter alia, at least 20%

Athletes, former NGB leaders and governance experts. The CCO will consult the Committee about, and the Committee will provide guidance to the CCO on the matters listed above. The Committee or a group thereof will be able to assist in disputes involving NGBs provided it does not slow the dispute resolution process. The Committee Chair will meet annually with the Board in open as well as executive sessions to provide an assessment of the compliance system, any corrective steps or penalties taken and the performance of the CCO. The USOPC must have, and the CCO must develop, a more robust and comprehensive whistleblower policy and reporting system which will ensure no retaliation. The CCO must deliver a report in open as well as executive sessions at each Board meeting on these matters. And while creating an Inspector General responsible for SafeSport, USADA, USOPC, NGBs and all US scholastic and youth sport organizations could be beneficial, this sector-wide, regulatory type approach is for Congress to decide.

**Culture.** The culture of the USOPC must change in order to build the trust of Athletes. The staff must, but many interviewees felt they do not, embrace an Athlete-centric culture and mission. The USOPC should engage a third party to conduct an annual assessment of its culture to monitor the evolution toward a more athlete-centric one and assess how the organization's culture is aligning with its stated mission. A moral imperative must exist to protect Athletes through SafeSport and applicable laws. The Commission finds the USOPC's recently enacted mission statement and principles - which are critical because they provide the standard upon which the success of the USOPC will be judged and the Directors' fiduciary duties will be measured - still retains the fingerprints of the past and strongly encourages the Board to revisit it.

**USOPC Staff.** The USOPC already has instituted changes in compensation to better align staff remuneration with Athletes' service and satisfaction levels but more needs to be done. One effective step to change staff culture is to hire more Athletes. With many recent new hires from outside the Olympic Movement, special and on-going training must be provided to staff with respect to the institutional history of the USOPC, the model of Olympic sport in the US and the roles of the various stakeholders and other interested parties. Although the USOPC recently has taken significant steps to hire more women in

key leadership roles, it must improve its racial, ethnic and experiential diversity with objectives established and delivered.

**Reports to Congress.** The USOPC currently provides annual, financial summaries to Congress. The materials must be more precise and transparent, outlining the flow of funds to athletes and NGBs alike, along with the criteria that drove the calculations. These reporting obligations must be expanded and also include: a report from the Compliance Committee, certified by the CCO, highlighting any USOPC compliance deficiencies and corrective action plans; a copy of the USOPC's most recent culture assessment, certified by the CEO, concerning the improvement in diversity of the USOPC and NGBs; a report from the Compliance Committee, certified by the CCO, highlighting any NGB compliance deficiencies, corrective action plans and penalties imposed; a certified report from the CCO both summarizing whistleblower claims, responses and investigation times and setting forth the CCO's assessment of the Center for SafeSport's timely handling of claims; and all NGB independent accounting firm audits, management letters and responses thereto.

**TSA Amendment.** The TSA was written in 1978 and amended in 1998. And while the world in general, and the Olympic and amateur sport community in particular, has changed dramatically over four decades, the governing document for the USOPC has remained relatively stagnant. In recognition of the current crisis and notable twenty-first century dynamics, the Commission has submitted precise Amendments to update the TSA and have it accommodate the necessary changes for this day in time as well as the foreseeable future. Acceptance of the Borders Commission's proposed edits will offer Congress a clear path to more transparent and timely oversight of USOPC.

**Conclusion.** Implementation of these Recommendations will result in comprehensive and compelling change. However, all recommendations should be executed to ensure maximum impact in resolving current issues and positioning athletes and the organization for optimal competitive success in the future. Their successful execution will permit the USOPC to increase the breadth and scope of its influence throughout US sport and set the standard for the protection, service and advancement of all athletes.



A chronological listing follows which outlines the Borders Commission Recommendations as well as the timetable for completion.



**EXECUTIVE SUMMARY  
RECOMMENDATION TABLE**

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BORDERS COMMISSION				
THE UNITED STATES OLYMPIC AND PARALYMPIC COMMITTEE				
JULY 2019				
MONTH	YEAR	ACTION	RECOMMENDATION	COMMENTS
July	2019	Amend Ted Stevens Act (TSA)	# 5 - 5.2	Deliver to Congress; Congressional Action Required
October	2019	Augment & Communicate Whistleblower Policy	#3 - 3.3	Perform rigorous review
October	2019	Discuss New NGB Funding Paradigm	#2 - 2.4	No More 'Money for Medals'; new approach Launch Date TBD
November	2019	Design, Develop & Launch Microsite	#1 - 1.6	Select Subject Matter Experts (SMEs) to design & execute a "Secure, One-Stop Communication Platform (ADA & GDPR compliant)
November	2019	Reimagine Ombudsman Role; Design Pro Bono Law Resources	#1 - 1.9; 1.10; 1.11	Collaborate w/AAC & NGBs for input, insights & innovation
December	2019	Hire CCO & Establish Compliance Committee	#3 - 3.1; 3.2; 3.3; 3.4	Execute New Hire
December	2019	Prepare & List Athletes' Rights on Microsite	#1 - 1.13	Current Rights, e.g. USOPC Bylaws Sections 8, 9, 10 & 11
December	2019	Design & Deliver AAC's 2020 Administrative Funding	#1 - 1.4	Collaborate w/AAC for input, insights & innovation
December	2019	Define & Broaden Athletes Served	#1 - 1.1	Collaborate w/AAC & NGBs for input, insights & innovation
December	2019	Develop & Launch NGB Certification Program	#2 - 2.5; 2.6; 2.7; 2.8; 2.9	Collaborate w/NGBs to establish Criteria, Communicate & Commence Certification Requirements
December	2019	Prepare Annual Congressional Report	#5 - 5.1	Package Form 990, CCO Reports, Diversity Assessment
January	2020	Design & Deliver Comprehensive Board Materials; Staff Training Materials	#1 - 1.3; #4 - 4.3; 4.4	Package, share & routinely refresh historical, regulatory & annual reporting materials for Board training & service; Staff Training too
March	2020	Deliver Pro Bono Law Program	#1 - 1.11	Research Potential Partners for Athlete Representation
June	2020	Redesign & Communicate Dispute Resolution Process	#1 - 1.8; 1.12	Collaborate w/AAC & NGBs for input, insights & innovation; Select Subject Matter Experts (SMEs) to architect new process
June	2020	Develop & Deliver Shared Services Program	#2 - 2.2	Ideate, identify & invest in areas of potential economies of scale, e.g. SafeSport Compliance, Legal
July	2020	Create & Convey Athlete Matrix, Benefit Levels and Service Expectations	#1 - 1.1	Collaborate w/AAC & NGBs for input, insights & innovation
September	2020	Deliver NGB Stipend	#2 - 2.3	Collaborate w/NGBs for input, insights & innovation; Launch Date TBD
September	2020	Align Staff Compensation Levels w/Athlete-centric Mission; Develop & Deliver Staff Diversity Plan	#4 - 4.4; 4.5	Select Subject Matter Experts (SMEs) to support these Human Resources initiatives
September	2021	Design & Deliver New Healthcare Services, including Mental Health	#1 - 1.5	Select Subject Matter Experts (SMEs) to analyze the current system & design a new system; goal: more comprehensive coverage for more Athletes at the same cost; Launch Date 2022
September	2021	Design & Deliver Athlete Lifecycle Materials	#1 - 1.6	Collaborate w/AAC & NGBs for input, insights & innovation; Launch Date TBD
September	2021	Establish Athlete Baseline Support Program	#1 - 1.7	Collaborate w/AAC & NGBs for input, insights & innovation; Launch Date TBD
September	2021	Establish Programmatic & Pipeline NGB Support	#2 - 2.1	Collaborate w/NGBs for input, insights & innovation; Launch Date TBD
June	2024	Reconstitute & Announce New USOPC Board	#1 - 1.2	Assign New Board Members to seats as the completion of terms / circumstances allow(s) replacements





# FINAL REPORT

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**BORDERS COMMISSION  
FINAL REPORT  
JULY 2019**

Background

The abuse of athletes, sexual or otherwise, is not new. Unfortunately, sexual abuse in elite youth sport, as in other organized youth programs and activities, has existed for many decades despite diligent efforts designed to protect young athletes from sexual predators.<sup>1</sup> Periodic media stories scattered throughout preceding decades reminded the public that sexual abuse remained an issue. In September 2016, however, media attention to the issue skyrocketed following revelations of the sexual abuse of elite gymnasts by Larry Nassar.<sup>2</sup> In early 2018, we all watched as these gymnasts bravely faced Nassar during his sentencing hearings, and the public began to clearly see and better understand "the full scope, depth and magnitude of the tragedy that had unfolded...."<sup>3</sup> How is it possible for a trusted physician to systematically and repeatedly sexually abuse our young athletic heroes for nearly thirty years inside a system and structure supposedly designed to protect athletes? The training and cultural environment of elite sport is broken and must be fixed, starting with the United States Olympic and Paralympic Committee (the "USOPC").

As has been well stated by others, it is clear that Nassar is ultimately responsible for each of his crimes; however, it is without question that Nassar "did not operate in a vacuum."<sup>4</sup> Nassar perpetrated his crimes "within an ecosystem that facilitated his criminal acts."<sup>5</sup> Express and deliberate action must be taken to transform such an ecosystem. The young elite athletes who devote their lives to represent us, the United States, must be protected and protected well.

On February 2, 2018, the Board of Directors (the "Board") of the USOPC engaged Ropes & Gray LLP, an international law firm, to perform an independent investigation to determine if and when USA Gymnastics and USOPC officials first learned of evidence of Nassar's sexual abuse.<sup>6</sup> Early in the investigation, the Board asked Ropes & Gray to determine "what was and what was not done in response [to such knowledge], but also the circumstances that contributed to and allowed for Nassar's sexual abuse to continue for such an

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<sup>1</sup> See "Nassar and Beyond: A Review of the Olympic Community's Efforts to Protect Athletes from Sexual Abuse", December 20, 2018, p. 2, Energy and Commerce Committee, Majority Staff.

<sup>2</sup> "Report of the Independent Investigation, The Constellation of Factors Underlying Larry Nassar's Abuse of Athletes", December 10, 2018, p. 1, Ropes & Gray, Joan McPhee and James P. Dowden.

<sup>3</sup> Id.

<sup>4</sup> Id., p.3.

<sup>5</sup> Id., p.2.

<sup>6</sup> Id., p. 12.

extended period of time, including systemic deficiencies, failures of oversight and contributing cultural conditions across Olympic sports."<sup>7</sup> The exhaustive and comprehensive work of Ropes & Gray was documented in a report entitled "Report of the Independent Investigation - The Constellation of Factors Underlying Larry Nassar's Abuse of Athletes" (the "Ropes & Gray Report"). This report was published on December 10, 2018, and the executive summary of the Ropes & Gray Report is attached to this Final Report as Exhibit A. The investigation by Ropes & Gray identified numerous systemic deficiencies, institutional failures and cultural conditions that must be addressed and corrected, but Ropes & Gray was not asked to recommend how to best fix these problems.

Also, during this same time period, the Energy and Commerce Committee, Majority Staff, of the United States House of Representatives (the "E&C Committee") undertook its own investigation of the Olympic and Paralympic ecosystem, taking a close look at the USOPC, the National Governing Bodies ("NGBs") and the culture of elite sport in the United States. The report of the E&C Committee was released on December 20, 2018. The E&C Committee report was entitled "Nassar and Beyond: A Review of the Olympic Community's Efforts to Protect Athletes from Sexual Abuse" (the "E&C Report"). A copy of the executive summary of the E&C Report is attached to this Final Report as Exhibit B. The E&C Committee also found systemic and institutional failures requiring the immediate and deliberate attention of the USOPC. The report ended with general recommendations, but the report did not provide significant details of how to address these failures.

### The Borders Commission

The Board previously had fomented the creation and initial funding of the independent US Center for SafeSport to handle athlete abuse, requiring the USOPC and the NGBs to abide by its Code of Conduct (covering many forms of abuse: bullying, harassment, hazing, physical abuse, emotional abuse, and sexual misconduct and abuse), its procedures and determinations. The Nassar sexual abuse crisis was a catalyst leading to the exposure of other fundamental and festering problems in the USOPC and NGBs.

Prior to the publication of both external reports, the Board already had begun taking other important steps in response to this crisis and these problems, one of which was to charter an independent commission to take an in-depth look at the USOPC's proper role in the Olympic and Paralympic community in the United States. The Board correctly assumed that the Ropes & Gray Report as well as the E&C Report would highlight problems to be fixed, and the Board also correctly assumed that such a commission was needed to provide detailed, implementable solutions to address not only the broken ecosystem those reports in fact identified, but also to fix these other fundamental problems. So, on June 14, 2018, the USOPC announced the formation of an independent commission referred to as the Athlete and NGB Engagement Commission. Lisa Borders, former President of the WNBA, was appointed Chair of this commission, and thus this commission was

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<sup>7</sup> Id.



popularly referred to as the “Borders Commission” (which also is referred to in this Final Report as the “Commission”).

Specifically, the Board asked the Borders Commission to consider if, and how, the USOPC should implement changes in the following areas:

- (1) the relationship between the USOPC and athletes, including what is, and what should be, (i) the USOPC’s service to athletes, and (ii) the best means of USOPC engagement with athletes;
- (2) the relationship between the USOPC and NGBs, including what is, and what should be, (i) the USOPC’s scope of responsibilities and oversight of NGBs, and (ii) the best means of USOPC engagement with NGBs; and
- (3) the structure of the USOPC indicated by recommendations on areas (1) and (2) above.

The Charter for the Borders Commission was intentionally broad, encouraging it to make recommendations addressing all of the above areas, including recommendations as to USOPC governance, policy, practices and procedures. The USOPC leadership recognized that such recommendations could also include required changes to the Ted Stevens Olympic and Amateur Sports Act, as amended (the "TSA").

After the December 2018 publications of the Ropes & Gray and the E&C Reports, the work of the Commission took on even greater importance and significance. The investigative efforts and findings set out in such reports highlighted numerous critical issues and the USOPC, as it had foreseen, needed independent guidance on how to best address and resolve such issues.

The members of the Borders Commission were:

<u>Commission Member</u>	<u>Perspective(s)</u>	<u>Key Role(s)</u>
Lisa Borders, Chair	Independent	Former WNBA President
Han Xiao	Athlete	Chair, USOPC Athletes Advisory Council/Elite Athlete (Table Tennis)

Elana Meyers Taylor	Athlete	Competing Elite Athlete/Olympian (Bobsleigh)
Mike Schultz	Athlete	Competing Elite Athlete/Paralympian (Snowboard)
Michael Lenard	Athlete	Former Elite Athlete/Olympian (Handball)/Vice President of the International Court of Arbitration for Sport
Renee Chube Washington	NGB (Large)	COO, USA Track & Field
Ted Morris	NGB (Small)	Executive Director, US Speedskating
Lorraine Orr	Independent; Youth Organization	COO, Boys & Girls Clubs of America
Beth Brooke-Marciniak	Independent; Board Member	Independent Director of the Board
Davis Butler, Counsel	Independent Counsel	Partner, Butler Mersereau LLP

Dan Doctoroff, a former independent director of the Board, served on the Commission during its first several months. Beth Brooke-Marciniak, however, assumed Mr. Doctoroff's place on the Commission in January 2019 when Mr. Doctoroff's work commitments necessitated a change.

The Borders Commission members were thought leaders chosen because of their diverse and relevant individual experiences, their significant accomplishments and their independence from the USOPC. Many Commission members represented stakeholders holding views often at odds with the USOPC and its prior leadership. Additional relevant biographical information on each Borders Commission member can be found in [Exhibit C](#).

The Borders Commission began its detailed work on September 22, 2018, and its work was divided into four separate phases:

Phase 1	<u>Activate Level Set:</u>	Background and Education
Phase 2	<u>Develop Recommendations:</u>	Initial Insights & Internal Testing
Phase 3	<u>Perform External Analysis:</u>	Interviews and Iteration
Phase 4	<u>Deliver Recommendations:</u>	Final Report and Toolkit

In Phase 1, given the independence of the Borders Commission, its first step was to ensure that all its members received background and educational materials key to the Commission’s work. To this end, the USOPC provided transparent, detailed and comprehensive presentations and written materials on a variety of topics, including among others, presentations and materials covering the TSA, dispute resolution services provided by the USOPC, athlete protection programs, USOPC resource allocation, athlete representation and advocacy, NGB resources, the relationship between the USOPC and NGBs and current relevant culture issues and challenges. The Commission members received both the full Ropes & Gray Report and the E&C Report, and the Commission discussed each significant and relevant finding therein. The Commission also received documents concerning the TSA and the institutional history of the USPOC, including reports from prior USOPC and Congressionally-mandated commissions that have reviewed the USOPC’s structure and operations. All told, the Commission received thousands of pages of relevant documents. The Commission completed Phase 1 by developing a list of important issues and questions for further analysis. By the end of Phase 1 and with the Ropes & Gray and E&C Reports in hand, the Commission was confident that most, if not all, major structural and operational issues and challenges relating to the USOPC's relationship with athletes and NGBs had been identified.

In Phase 2, the Commission developed its own initial recommendations to address the major issues and challenges. These recommendations were discussed and tested internally among Commission members to help ensure that the recommendations were correctly tailored to the issues identified in earlier reports. The Commission members also needed to be sure that the recommendations could, in fact, be implemented within the complex system that is the Olympic and Paralympic Movements the United States.

In Phase 3, the Commission requested interviews with seventy-three (73) individuals. The first interviews were of individual experts, many of whom had been the most vocal in their criticism of the USOPC, and these interviews were held before the entire Commission. The remaining interviews were handled by a diverse team of interviewers, representing the Commission. A number of those invited to speak to the Commission requested interview time with the Commission. A number also were recommended to the Commission as those who might be willing to provide additional insights along with helpful recommendations specifically designed to solve current issues and challenges. Sixty-two (62) of the invited individuals spoke with Commission representatives or provided written feedback. The



chart that follows provides a breakdown of the experiences and characteristics of the individuals who provided information to the Commission. The numbers do not tally as usual because many of the sixty-two (62) people interviewed fall into multiple categories set out below, i.e. interviewees are counted in multiple categories.

The infographic features the title 'DIVERSITY OF INTERVIEW POOL' in a stylized font with blue and grey elements. Below the title is a table with columns for 'INVITATION', 'INTERVIEWED', 'ATHLETES', 'PARA', 'NGBs', and 'USOPC'. The rows represent 'Men', 'Women', and 'Total'. The 'Total' row is highlighted in blue.

	INVITATION	INTERVIEWED	ATHLETES	PARA	NGBs	USOPC
Men	48	38	24	6	15	17
Women	25	24	18	5	7	5
<b>Total</b>	<b>73</b>	<b>62</b>	<b>42</b>	<b>11</b>	<b>22</b>	<b>22</b>

Despite the variety of backgrounds, experiences and characteristics, the information and recommendations provided by those interviewed were remarkably consistent. Most of those interviewed were hopeful and still passionate about the Olympic and Paralympic Movements in the United States and they provided thoughtful recommendations and feedback to the Commission. However, most of the athletes and many other interviewees expressed significant and serious concerns about possible retaliation for helping the Commission. It is for this reason that the Commission has promised to keep the names of those interviewed confidential. Such fears highlight a lack of trust relative to the USOPC of the recent past and the NGBs. The mis-use of team selection procedures with subjective standards by some of the NGBs and the "money for medals" approach of the USOPC inadvertently but clearly resulted in previous mistreatment of athletes who spoke up about issues and exacerbated the overall fear of retaliation.

During the interviews, Commission members and representatives began by listening to the issues raised by the interviewees. It was helpful to hear many of the same issues described by those from different perspectives and under a variety of circumstances. The Commission members and representatives then asked for recommendations from the interviewees. The vast majority of the recommendations received validated many of the

initial recommendations of the Commission members themselves. In most interviews, there were discussions of the feasibility of the recommendations and how to best implement them. In early June 2019, the Commission members met for several days in person and carefully reconsidered recommendations and refined them based upon the input of the outside experts.

Phase 4 involved the writing of this Final Report for the USOPC to use as a blueprint to implement the Commission's recommendations. The recommendations set out in this Final Report are intentionally and specifically designed for the USOPC with application to the NGBs as well. The implementation of each and every recommendation, unless explicitly stated otherwise, is critical and absolutely necessary. The problems identified by Ropes & Gray and the E&C Committee, and confirmed by the Borders Commission, are real and have not been exaggerated. Based upon the many athlete interviews undertaken by the Borders Commission, sexual misconduct to and abuse of athletes appears to be worse than most initially understood. This further amplifies the need for the Commission's recommendations to be implemented fully.

In the past almost two decades, by taking an increasingly limited and narrow view of its roles and responsibilities, the USOPC lost its way. The USOPC, however, now has the opportunity to course correct. The first step is for the USOPC going forward to take a broader view of its roles and responsibilities. The second step is to make the significant changes set out in this Final Report to repair itself. The NGBs and their Paralympic equivalents<sup>8</sup> must follow the lead of the USOPC and should implement applicable recommendations as well.

Before turning to the specific recommendations of the Borders Commission, it is important to address a pervasive cultural issue in elite sport. The intense, competitive culture of elite sport led many over the years to overlook, and in some cases accept, abuse that would not be tolerated or accepted in other circumstances. In the past, parents may have chosen to overlook abuse of their athletically gifted children in an effort to avoid issues that

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<sup>8</sup> The Commission wishes to make clear that it realizes both Olympic and Paralympic sport are governed by and important to the USOPC. A Paralympic Sports Organizations (“PSO”) would be the equivalent of an NGB, but there currently are none because the USOPC operates Paralympic sport directly. In some cases, NGBs operate or have operated their Paralympic sport. The USOPC occasionally utilizes certain organizations to assist it in operating Paralympic sport, which they call High Performance Management Organizations (“HPMO”). Thus, many of the recommendations relating to, or the mention of an NGB, in this Final Report do not have a directly applicable Paralympic counterpart. For ease of reading, this Final Report uses the term “Paralympic equivalent” to generally refer to the USOPC or NGB Paralympic or HPMO functions and the Commission has tried to use it in those places where a direct analogy seemed most applicable. However, any failure to use that term when an NGB is otherwise referenced does not imply that the Commission is advocating a position one way or another with respect to Paralympic sport or its athletes.

could impact whether or not a young man or woman was on track to be chosen for a National, Olympic or Paralympic Team. It appears that athletes, afraid of losing a spot on a team or afraid of retaliation in some other form, have chosen to remain silent in the face of obvious wrongs, including horrible and abusive acts. Structures, policies, procedures and education certainly can help change such a culture. To radically change the negative culture which exists today in elite sport, however, requires special leadership. Great leadership requires people and entities to recognize they are in a position of great influence with a broad sense of duties and responsibilities. The USOPC must assume its rightful leadership position by setting the standard for protecting athletes. A narrow view of responsibility designed to limit liability and protect reputations has no place inside the USOPC. A new mindset and behavioral paradigm at the USOPC will be required to implement the Commission's recommendations. Now is the time for the USOPC to fully and enthusiastically embrace the role of protecting, serving and advancing elite athletes.

It should be noted that the Center for SafeSport and its Code of Conduct, whose role and position has been recognized and authorized by Congress (albeit with an unfunded mandate), was created to address many of the issues at hand today. SafeSport is a new and much needed vehicle; however, it is the recommendation of the Commission that the USOPC lobby Congress to help fund the activities of the Center. The USOPC must be willing to share in its fair share of the costs of SafeSport. That said, the USOPC should not be the only funding organization. In recognition of this pervasive problem of athlete mistreatment across the sport landscape, SafeSport should become the resource for education of the sports world at large, as well as the investigator and prosecutor for serious abuse such as sexual misconduct and abuse.

### The Commission's Recommendations

On the basis of the extensive Commission research, analysis and insight derivation, including information gathered from a variety of sources and perspectives, the Commission has recommended five key areas for mandatory change to the USOPC, i.e. Athlete Prioritization, NGB Support and Oversight, Organizational Accountability, Organizational Behavior and Congressional Oversight. Under each recommendation are helpful explanations, where needed, and more importantly, detailed, specific implementation steps. A table of the recommended changes, along with due dates for full implementation, is listed after the Conclusion.

The Commission appreciated that the past failures of the USOPC had been thoroughly presented and discussed in the Ropes & Gray and the E&C Committee Reports. Therefore, as requested, the Commission has provided these recommendations, and due dates, designed to ensure that going forward, the USOPC better protects, services and advances "Athletes" during their lifecycle, as defined herein.

**Protect** - to provide directly, or to require others to provide, a safe and secure training environment to an elite Athlete, free from abuse and including mental, emotional and physical elements;

**Serve** - to deliver benefits and services commensurate with each Athlete's status in order for them to compete and succeed at the highest sporting levels they can while leading healthy lives; and

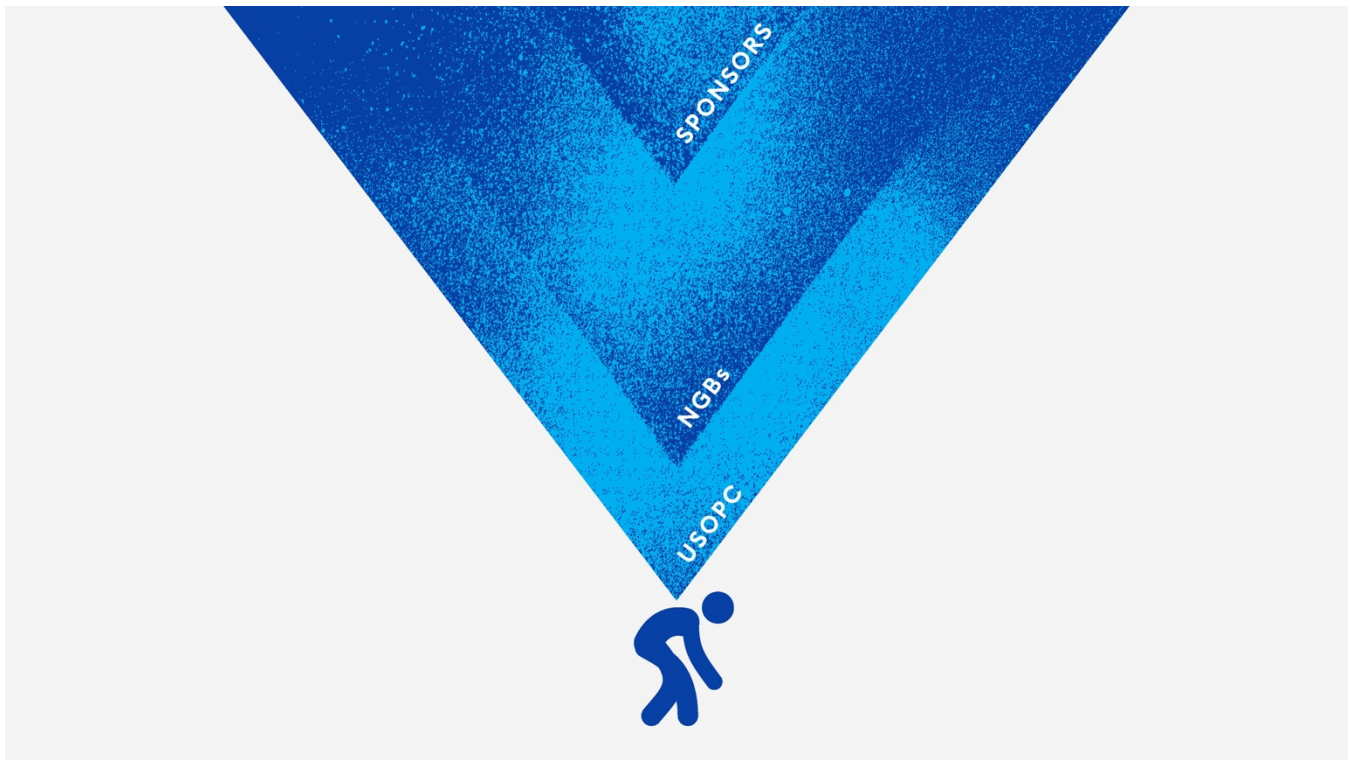
**Advance** - to provide resources to help Athletes lead healthy and successful lives across the continuum of their career, including training, active competition, retirement and beyond.

**Recommendation 1: Prioritize Athletes**

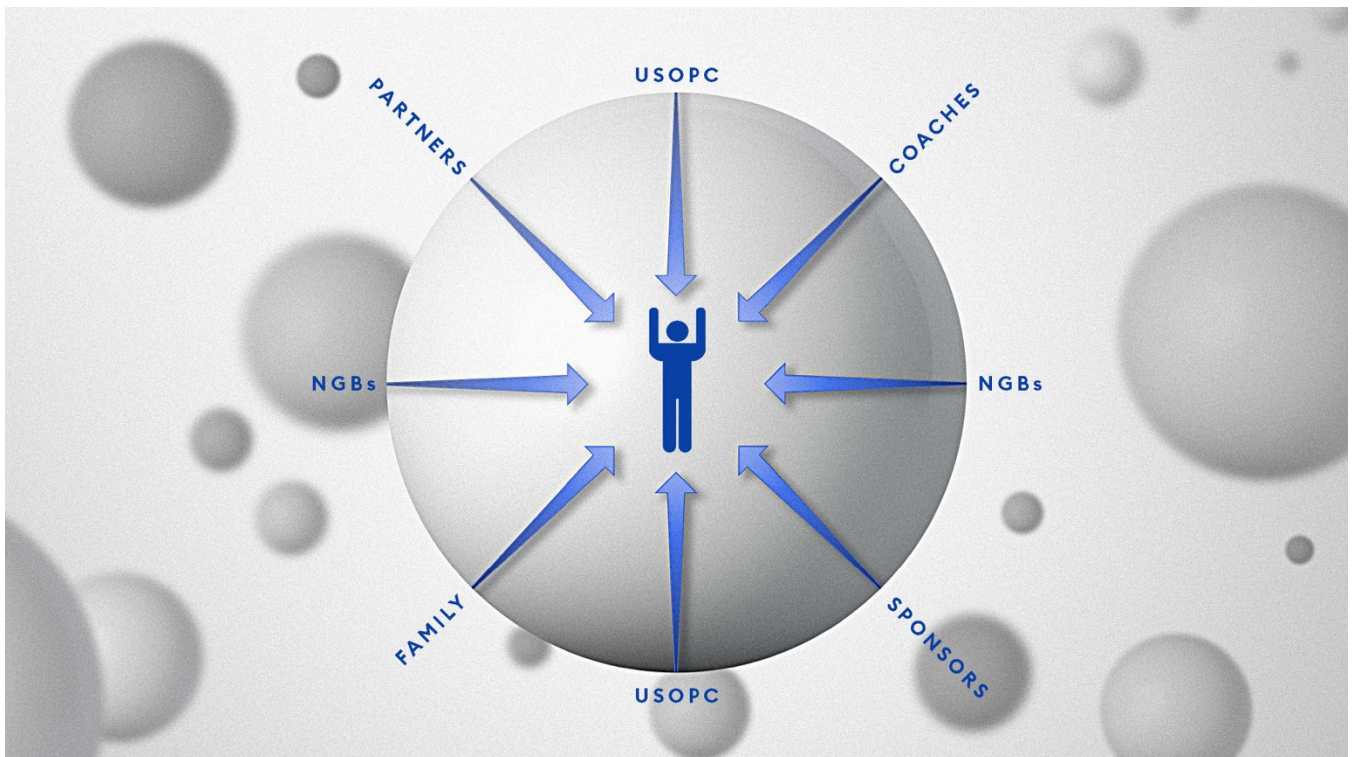
The USOPC must make improvements, both structural and operational, to ensure that the USOPC becomes and remains an athlete-centric organization committed to the protection, service and advancement of Athletes.

In 2003, the USOPC radically shifted its structure to a more corporate, as opposed to representational, model. Shortly thereafter, the USOPC shifted its priorities to a more money-focused and revenue generation and distribution operation. In so doing, the USOPC adopted what is commonly referred to as "money for medals" funding approach with the NGBs and athletes. Such structural and operational shifts resulted in several negative consequences, the most egregious of which is that the focus on protecting and ensuring the well-being of athletes was lost. Instead of being an athlete-centric organization, many athletes felt as if the USOPC and the NGBs and their Paralympic equivalents were "making money off their backs." The inverted triangle diagram which follows graphically demonstrates the current sentiment of athletes who view their role as merely supporting the money-making operations of the USOPC, NGBs and sponsors.





The USOPC and the NGBs and their Paralympic equivalents alike, must course correct, placing athletes and their well-being, at the center of all considerations and business operations.



Athletes are the primary constituency of the Olympic and Paralympic Movements and the circle with the athlete in the center depicts this enlightened approach. With the athlete as the priority of all efforts of the USOPC and the NGBs, the roles of the USOPC and the NGBs return to making the highest priorities the protection, service and advancement of athletes. These three themes will be found throughout this Final Report.

### Which Athletes?

Broader Definition of Athletes. In recent years, the USOPC has read the TSA narrowly, and thus the USOPC has taken the position that the USOPC has no athletes for which it is responsible. Going forward, the "Athletes" to be protected, served and advanced directly and indirectly by the USOPC must include:

- elite athletes, i.e. those who are currently competing on the National Team and/or at highest international levels, including those who are temporarily unable to compete due to injury or pregnancy (“Competing Elite Athletes”);
- athletes who are in the pipeline to become the next Competing Elite Athletes (“Emerging Elite Athletes”); and
- recently retired elite athletes (“Retired Elite Athletes”).

Each NGB and their Paralympic equivalents will identify these Athletes upon consultation with and approval by the USOPC. These various categories of Athletes need not receive the same levels of USOPC support; however, each individual within one of the groups must be viewed as an Athlete who must be protected, served and advanced at some level by the USOPC. The Commission recognizes challenging complexities when categorizing Athletes. For example, at what point is a Retired Elite Athlete no longer “recently retired”? And at what point in the pipeline does one become an Emerging Elite Athlete? Although the USOPC and NGBs will need to tackle some difficult categorization issues, the goal is to ensure that a reasonably broad group of athletes are included within the above categories and the USOPC should be more inclusive rather than exclusive.

- Specific Implementation Step 1.1 - The USOPC must explicitly define and broaden the number and types of the athletes it will protect, serve and advance.

### Better Governance

The USOPC Board. The Commission looked closely at the structure of the Board of Directors to determine if structural changes to the Board would help the USOPC move toward a more athlete-centric entity. To achieve this, the Commission determined that the Board

must be reconstituted as described. The Commission does not hold to the theory that there must be a majority of independent directors but recognized that they remain an important component of the Board.

The Commission recommends the following Board Member combination:

- At least three (3) athletes who would be eligible to serve on the Athletes' Advisory Council (the "AAC") must be directly elected by the AAC for each initial and any renewal Board term. The Commission recommends that the Chair of the AAC or another senior leader of the AAC should serve in one of these Board positions to ensure that the voice of the AAC and the voice of the Board is heard by both groups and that one of these positions should be filled by a Paralympic athlete. The Commission does not recommend that currently competing Athletes be elected due to their training and competition time constraints.
- At least two (2) additional former athletes with significant and relevant life experiences who would be eligible to serve on the AAC but for the “Ten-Year Rule”<sup>9</sup> also must be directly elected for each initial and renewal Board term by the United States Olympians and Paralympians Association ("USOPA") in close consultation with the AAC leadership. This new change will help ensure that a broad spectrum of Athlete voices is heard. The USOPC should provide a comprehensive list of needed skills and experiences to the USOPA and AAC leadership to help these groups chose functionally aligned and impactful Board representatives.
- At least three (3) NGB Representatives must be directly elected by the NGBs for each initial and any renewal Board term. The Commission recommends that one of these representatives be the Chair of the NGB Council. The USOPC should provide a comprehensive list of needed skills and experiences to help the NGBs choose effective Board representatives. The Board should help NGBs improve the NGB nomination and election process to ensure the best possible candidates for selection to the Board.
- At least five (5) Independent Directors must be elected by the entire Board. The Commission recommends the Board be comprised of a mosaic of expertise and experience, ensuring that diverse perspectives are intentionally at the decision-making table. The USOPC Nominating and Governance Committee should identify, review and propose a slate of Independent Directors to the Board.

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<sup>9</sup> The “Ten-Year Rule” as defined in the USOPC Bylaw 14.4 generally requires that an athlete, to be eligible to serve on the AAC, must have competed in an Olympic, Pan American, or Paralympic Games, or in an event designated as an Operation Gold Event, within the preceding 10 years.

- Current IOC Members from the United States, as required by the International Olympic Committee (the "IOC"). Each IOC Member on the Board must fully appreciate and wholly acknowledge all perceived or real conflicts of interests. The Commission learned of instances where IOC Members were conflicted yet still participated in Board decisions. IOC Members may participate in discussions where there are possible conflicts of interest; however, IOC Members should not vote on Board decisions where there is a perceived or real conflict between their roles as IOC Members and as Board members.

The Commission recognizes that, absent any resignations in light of this recommendation, any changes to the Board will take place over time, considering current terms of service and staggered rotations.

- Specific Implementation Step 1.2 - The USOPC should reconstitute the Board as described primarily, but among other things, to provide more direct athlete representation.

Board Training. In an effort to better prepare all Board members for their role as directors, substantial initial and ongoing, periodic Board training is essential. The unique nature of the USOPC and the Board members' potential lack of (i) adequate board of directors experience; (ii) knowledge of the "US Model of Sport" and athlete development; (iii) institutional history of the USOPC, (iv) proper understanding of their fiduciary duties owed to the USOPC, its stakeholders and other interested parties; and (v) understanding of the charitable status nature of the USOPC, requires special and deliberate efforts to provide and require best-in-class training on these topics for Board members. All Board members must undergo such training and read this Report, the Ropes & Gray Report, the E&C Report and all previous commission reports from USOPC or Congressionally-mandated commissions that have reviewed the USOPC's structure and operations. This will ensure better understanding of the challenges and mistakes of the past and likely help ensure the USOPC does not lose its way again. A significant part of the Board training, especially relating to the duties and obligations of directors, should be outsourced.

- Specific Implementation Step 1.3 - The USOPC should develop and deliver the described best-in-class training for all Board members.

### Voice of the Athletes

AAC Support. The Commission discussed at length ways to improve the AAC and to help the AAC become the collective voice of Athletes. Athletes once had a "huge voice" and "significant presence" in the decisions and operations of the USOPC through the AAC. That voice has been lost over time. In addition to direct elections/re-elections to the Board and continuing the valuable working relationship between the AAC and the USOPA, other steps must be taken to help the Athletes regain their voice and presence.



To that end, each USOPC committee, working group and task force must be comprised of at least 20% Athletes selected by the AAC and/or the USOPA. The AAC also must receive dedicated, unencumbered financial support from the USOPC, including funds to hire administrative employees reporting to the AAC, and have control over its own budget. The Board's control of AAC bylaws must be relinquished back again to the AAC, so long as such bylaws comply with the USOPC bylaws and the TSA. In addition, the criteria to be an AAC member must be focused on athletes who have competed in the Olympic, Pan American or Paralympic Games (the "Games") and in other major international competitions as approved by the AAC – as opposed to, as is currently required in the USOPC Bylaws (see footnote 9), using performance bonus funding vehicles such as "Operation Gold" events. The AAC representatives selected to the Games as staff must again have meaningful roles with the Ombudsman to assist Athletes at the Games. The role of athletes in NGBs and their Paralympic equivalents also is important: each NGB and their Paralympic equivalent must be required to have an athletes' council (although such councils also should include athletes who would not satisfy the AAC's eligibility requirements), and the leadership of those councils and the AAC must meet on a periodic basis. The Commission heard compelling examples of the merits of using these NGB athletes' councils, or even the AAC, subject always to proper conflicts of interest procedures, to hear and decide first instance athlete code of conduct violations. In addition, several NGBs have strong National Team alumni programs which, among other things, provide an opportunity for those athletes to have a voice, and each NGB and their Paralympic equivalent should be strongly encouraged to create one and the USOPC must provide data base and other support to assist in this effort.

- Specific Implementation Step 1.4 - The USOPC must enable the AAC to be the "Athletes' Voice" by changing its Bylaws as necessary and providing the necessary support described above.

### Athlete Support and Service

The USOPC can and must provide better support and services for Athletes, although the Commission recognizes that the levels or types of such may and will vary for each Athlete category. We are not suggesting that NGBs and their Paralympic equivalents no longer have the responsibility to protect, serve and advance Athletes. We are recommending an additional layer of support coming directly from the USOPC.

Better Health Insurance for Athletes. The elite health insurance product currently offered to a small group of Athletes is expensive, limited and seriously flawed in a number of ways. It is critical, however, that our Athletes have access to needed, reasonable health care services, including mental health services. A strategic review of possible improvements in this area, however, was beyond the scope of the Commission's Charter. The USOPC must ensure that such services are provided and empanel a group of creative healthcare spe-

cialists and experts as a task force to look closely at possible options in this area and provide guidance toward a solution to this challenge. There are viable alternatives to the current system which will better meet the needs of Athletes.

The Commission was surprised by the volume and seriousness of the many mental health issues raised by Athletes and NGB representatives during the interview process. For example, one athlete described depression and suicidal thoughts arising within a few weeks after retirement from competition. In a desperate place, the Athlete reached out to the USOPC for mental health help and support, but the Athlete was told that such services were not available for Retired Elite Athletes. From the Commission's research, it was clear that Retired Athletes are a group desperately in need of mental health services. The USOPC must engage with mental health experts to design a care system that best meets the needs of Athletes most likely to need such services.

It is important to distinguish between mental health experts who concentrate on performance from those who are clinical psychologists, licensed to help those suffering from mental health issues, including depression. The Commission heard accounts of mental performance experts being used historically to treat clinical depression. The use of performance experts to address and treat conditions outside their areas of expertise is dangerous and not in the best interest of Athletes or the USOPC. The Commission recommends that outside clinicians be used to help those Athletes struggling with depression issues.

In providing mental health care to Athletes, confidentiality must be strictly maintained. During interviews, the Commission learned of Athletes who chose not to obtain needed care and treatments out of fear of losing their positions on National Teams. This is a compelling reason for the use of external clinicians and for strict confidentiality provisions to be adopted by the USOPC.

- Specific Implementation Step 1.5 - The USOPC must provide a better healthcare and insurance solution, including mental health services for the larger pool of Athletes.

Training and Educational Opportunities. The USOPC currently provides internships to Athletes, and some USOPC departments have made significant strides in hiring Athletes for permanent staff positions. The Commission suggests that the USOPC concentrate even greater efforts toward the implementation of an improved, strategic pathway to better prepare willing Athletes for life after competition. This pathway should include substantial and meaningful strategic intern programs at the USOPC, at NGBs and their Paralympic equivalents and with private sector organizations designed to give Athletes additional skills beyond sport in a variety of fields. The pathway need not be designed solely for those interested in college, graduate schools and white-collar occupations. Trade programs and skilled worker occupations should be part of the USOPC's lifecycle

programs as well. The USOPC should take additional meaningful steps to strongly encourage sponsors and broadcasters to consider Athletes for internships, mentee slots and job openings. The USOPC should also encourage NGBs, their Paralympic equivalents, and their elite level coaches to create impactful programs to prepare interested Athletes for future coaching opportunities.

The USOPC should work to develop undergraduate and graduate school opportunities for interested Athletes. The Commission encourages the USOPC, when it is developing relationships with pipeline collegiate programs, to ask for specially designated spots for qualified Athletes in undergraduate and graduate programs at a wide variety of schools. Also, the USOPC should diligently pursue and encourage places for Athletes in higher education programs that have traditionally been attended by more staff than Athletes.

When designing improved Athlete lifecycle programs, the USOPC should look to NGBs (internal expertise) and the private sector (external expertise) that have implemented successful and commendable mentor and training programs. These models can be analyzed for broader scope and greater scale across the USOPC and NGBs. Intra-Olympic/Paralympic programs can be extremely meaningful as well, including mentorship opportunities between past Olympians with strong careers and younger Athletes.

A frequent complaint directed at the USOPC relates to a perceived failure of the USOPC to effectively communicate Athlete opportunities to those who might benefit from USOPC programs and offerings. The Commission found that many of the complaints were misguided; however, the USOPC nevertheless must look for better ways to communicate with Athletes. As a first step, the Commission recommends the creation of a Microsite that can be used to provide real-time, critical information to Athletes, including information about educational and experiential opportunities as well as support relating to life after competition. This Microsite should exist as a 'secure one-stop-shop' for Athletes, capturing their profile as well as enabling them to research their questions and/or report any issues. The site - highlighting data capture and storage - should be mobile friendly to accommodate Athletes' training and competition travel schedules, as well as be compliant with all data regulations. Examples of content to include but not be limited to (i) the list of Athletes' Rights described herein, (ii) the Whistleblower Policy and any reporting forms therefore, (iv) links to the SafeSport website, (v) links to each NGB's and their Paralympic equivalent's website and (vi) relevant reports (e.g. the annual USOPC reports to Congress, Ropes & Gray Report, E & C Report and this Final Report) and (vii) the USOPC's 990 and other public financial reports. The USOPC should work with the AAC and NGBs to ensure that Athletes are aware of the existence of the new Microsite as well as its purposes and content.

Several interviewees mentioned that Athlete advocates, such as AAC representatives, should not be permitted to pursue opportunities within the USOPC. The USOPC should consider this issue carefully and determine reasonable boundaries to prevent improper influence by the USOPC over an Athlete advocate.

- Specific Implementation Step 1.6 - The USOPC must improve educational and career training opportunities throughout the Athletes' life cycle. A Microsite must be developed, deployed and routinely refreshed to serve as a secure, one-stop shop communication platform for Athletes.

Direct Financial Support. Many of the Athletes are at a competitive disadvantage because of the lack of direct funding from government resources. Elite athletes from other countries often receive significant government funding. The USOPC must establish some program of baseline financial support directly to Athletes, although the Commission realizes that different categories of Athletes will receive different levels of support. The Commission further recognizes that any significant source of such funds must be creatively sourced beyond the current revenue streams. The Commission discussed possible direct funding options to supplement current Athlete income. The USOPC should carefully and thoroughly study possible direct funding options to create this baseline level of support.

- Specific Implementation Step 1.7 - The USOPC must establish and/or increase direct financial support to Athletes using a layered approach of funding.

Dispute Resolution. The Commission received numerous in-depth comments with respect to Athletes' and other persons' disputes with NGBs and the dispute resolution process provided in the USOPC bylaws. These disputes generally concern the right to compete (Section 9 of the USOPC Bylaws) and NGB and their Paralympic equivalents compliance with the requirements applicable to them (e.g., as applicable, pursuant to Section 10 of the USOPC Bylaws) and the TSA. Clearly, the USOPC must be held accountable to provide the same due process in these proceedings that is required of the NGBs. The USOPC's historical reluctance to address issues with NGBs has left the burden of raising such issues to individual Athletes, in effect resulting in Athletes acting as "private attorneys general" on behalf of similarly situated Athletes. The USOPC must change this mentality. It must take steps to both reduce the number of these complaints and to institute changes to enhance the efficiency and fairness of the dispute resolution process.

Reducing the Number of Complaints. Implementation of a number of the recommendations in this Final Report should lead to a reduction of compliance complaints. Such recommendations include, inter alia, the establishment of the Chief Compliance Officer, Compliance Committee, "certification process" and whistleblower policy. Many NGBs, especially those that are not major sports in the US, do not have sufficient financial resources to ensure they can adequately meet their compliance and other obligations. Implementation of the recommendations in this Final Report concerning NGB support should mitigate this problem and thus lead to a reduction in compliance complaints. But the most important factor in reducing these complaints will be achieving the necessary cultural



changes repudiating the USOPC's corporate "hands off" philosophy to adopting one of service and "taking responsibility".

Right to compete complaints often emanate from vague, incomplete or wrongfully implemented team selection procedures. The USOPC approves team selection procedures for the Games, but an athletes' Section 9 rights often are broader and often entail precursor team selections. The primary responsibility for crafting and implementing team selection procedures must arise from and remain with the NGB. However, the USOPC's expert questioning and approval of these procedures is critical, especially because they are the primary basis for Section 9 complaints. A properly crafted and implemented team selection procedure is fundamental to ensure Athlete rights.

The USOPC already has recognized that that its existing system for approving team selection procedures is "broken" and has implemented a working group to try and fix it. There is ample precedent and analysis of team selection practices through arbitral decisions and high-performance studies of this issue both in the US and other countries to guide the working group. However, it is impossible and unwise to create a single template for all NGBs' team selection procedures. The USOPC's role should be to review and question whether an NGB's selection procedures make sense within the context of the NGB's high performance and strategic plans, comply with basic team selection best and required practices, are clearly written and anticipate various scenarios that the NGB may not have thought of and have been properly adopted procedurally and, once approved, that they have been properly distributed and implemented. In addition, the USOPC must ensure that such procedures require that teams be named (and challenges thereto can be brought) earlier than when the athletes' names or provisional rosters are due to event or Game organizers. It also must be proactive in dealing with NGBs when it encounters a team selection procedure problem with an Athlete that foreseeably will affect other Athletes and result in further complaints. Currently, the team selection procedure approval process is a snapshot prior to, e.g., the Games. But this is not how Athletes are developed. The precursor events often are the basis for a Section 9 complaint. The USOPC must take a holistic, process approach to fix this problem. With these changes in mind and a more expert and newly proactive USOPC staff in this role, unnecessary right to compete complaints should decrease. The Commission discussed the proper use of objective or subjective standards – either or both of which are proper in the right circumstances – in team selection procedure in depth. The Commission heard of misuses of such subjectivity, especially in certain sports, including that it has been an impediment to Athletes and parents reporting abuses or making other complaints. However, it recognizes that the use of either or a combination of objective or subjective standards in team selection procedures are proper in the right circumstances and if used in good faith. Making specific recommendations applicable to all NGBs, or a complete discussion of best practices in team selection, is beyond the scope of this Final Report, and the Commission expects and trusts that the working group will be able to properly deal with the issues raised here - and any other issues not discussed above – and fix the problem.

- Specific Implementation Step 1.8 - The USOPC must take the necessary steps described above to reduce the number of compliance and right to compete complaints.

Ombudsman and Pro Bono Counsel Role. The formal creation of the USOPC Ombudsman was an important milestone in athlete rights. The Ombudsman role as a source of information and vehicle to solve Athlete complaints and defuse their disputes remains critically important. However, the Ombudsman is overwhelmed, including by a wide variety of athletes and by complaints and disputes for which no solution is possible and cannot be defused. Implementation of the recommendations in this Final Report should decrease the number of complaints and thus this burden. But in addition, the role of the Ombudsman must be limited to assisting Athletes (as defined in this Final Report). In addition, the Ombudsman must have the power and authority to stop and move a complaint or dispute to and through the dispute resolution process when they deem it necessary or appropriate. Also, communications by and between the Ombudsman and Athletes must be confidential and privileged. However, having someone provide information, try to solve complaints and defuse disputes may not be sufficient. Athletes also may need or want someone to advise and represent them as an advocate and lawyer. Of course, an Athlete can find and hire their own lawyer. An informal pro bono lawyer program for Athletes overseen by the Ombudsman has informally existed for many years. However, the pro bono program must be officially established as soon as possible.

- Specific Implementation Step 1.9 - The role of the Ombudsman must be limited to dealing only with issues involving Athletes as defined by this Final Report, and the Ombudsman must have the power and authority to send disputes to and through the dispute resolution process.
- Specific Implementation Step 1.10 - Communication between an Athlete and the Ombudsman must be treated as privileged and confidential.
- Specific Implementation Step 1.11 - A pro bono lawyer program for Athletes use must be formally established.

Dispute Resolution Process. The dispute resolution process provided for in, and mandated by, the USOPC Bylaws and TSA must be changed in key ways to increase its efficiency and fairness. It is beyond the scope and time available to the Commission to redraft these provisions. However, the Commission does have some specific observations.

Arbitration was and must remain the cornerstone for sports dispute resolution. The American Arbitration Association (the “AAA”) system is required to be used pursuant to the USOPC Bylaws and TSA. However, the Commission heard from many varied sources that this system has become too expensive (especially as to arbitration costs and arbitrators’

fees) and too often its arbitrators (other than in USADA doping disputes) do not have sufficient, if any, sport knowledge or expertise as to the US and international and Olympic sport. Since the original passage of the TSA, other sport arbitration models and systems have been created and been operating. The AAA must be removed from its monopoly position as a precursor to discuss with it the current problems described above and explore solutions thereto - and if that discussion is not fruitful, then the USOPC can explore using another system.

In Section 9 disputes, the athlete is not required to exhaust their remedies at the NGB level. Sometimes they do and sometimes they go directly to the USOPC Section 9 process. The path to arbitration in resolving a Section 10 complaint is long and tortured. It first requires an internal USOPC hearing, and such internal hearing panel may require mediation if requested by any party. The party against which the complaint is filed often has an incentive to delay and thus requests mediation. Section 10 also requires an exhaustion of remedies at the NGB level unless the internal hearing panel decides by clear and convincing evidence that exhaustion would result in unnecessary delay. Finally, the internal hearing panel's decision may be challenged in a AAA arbitration. Unnecessary delay which can easily be exploited is literally built into the process.

A different path must be created - the details of which must be discussed further among lawyers for athletes and NGBs with expertise in these disputes. Nonetheless, the Commission recommends the following starting point for this new path. Upon the filing of a Section 10 complaint with the USOPC legal department, the claimant may also make a proffer to the USOPC for the USOPC to step in and take over the case. The CCO and the Compliance Committee (or a committee thereof) must be involved in the decision to accept or reject the proffer, which must be decided within ten business days. If the USOPC accepts the proffer, then it becomes the claimant. If the USOPC rejects the proffer, then such fact and an explanation of why must be stated in the Compliance Committee's report, as described below, to the Board. The internal hearing requirement must be abandoned. Exhaustion of remedies at the NGB also must be abandoned but, like Section 9, the claimant may choose to first avail themselves of NGB procedures. Forced mediation (absent the request of both the NGB and the claimant) must be abandoned. Within ten business days after the USOPC decision on the proffer, a filing fee must be paid to the arbitral tribunal by the claimant. However, before forming the tribunal's arbitration panel, the NGB and claimant must meet and confer for ten business days (a mandatory settlement conference). If there is a settlement, then the USOPC must enforce it. If the USOPC does not accept the proffer, then the CCO (and/or with his/her designees from the Compliance Committee) must participate. During this time, an arbitral panel nonetheless will be selected but not empaneled (i.e. no arbitral fees can be charged). If the parties do not agree to a settlement, then upon the expiry of the mandatory settlement conference period the arbitrators automatically will be empaneled, and the arbitration will begin. The panel in its decision must make an explicit determination with respect to the awarding of costs (e.g., arbitrations costs, attorney's fees and other similar costs) on standard as follows: to the claimant if they substantially prevail and to the NGB if they substantially prevail and

the panel determines that the complaint was frivolous, in bad faith or the complaint is objectively found to be without significant merit. The results of the mandatory settlement conference and, if any, the panel’s decision will be reported to the Compliance Committee and described in its report to the Board.

For a Section 9 complaint, and as in the Section 10 recommendations: (i) a proffer to the USOPC to take over the case must be utilized, although the Commission recognizes that accepting such proffer may be more difficult in certain situations due to the athlete vs athlete nature of certain Section 9 complaints and (ii) the awarding of costs similar to the above generally should be implemented but the arbitrators must be given greater leeway than that stated above, and the idea requires more study and input, given that interested parties (such as affected athletes) are likely to be parties.

Finally, for the purposes of any dispute where the USOPC utilizes outside counsel, the Commission has concluded that it would be inappropriate and a conflict of interest – given the recommendations here with respect to the USOPC in conjunction with team selection procedure approvals and compliance - for such counsel to represent any NGB or athlete (i.e. anyone other than the USOPC) in any litigation or dispute resolution process governed by or relating to the USOPC Bylaws (including Sections 9 and 10, but also others such as Sections 8 and 11) or NGB compliance with the USOPC Bylaws.

Some of these changes will or may require changes to the TSA, but it is not yet ripe to reflect in Exhibit D.

- Specific Implementation Step 1.12 – Changes to the USOPC Bylaws and TSA and the USOPC’s operational policies and procedures must be implemented to effect the recommendations necessary to improve the dispute resolution process.

Collective List of Athlete Rights. The Commission recommends that the USOPC publish a list of athlete rights on the Microsite discussed earlier in this Final Report. Aspirational rights should not be included on this list. Details regarding the dispute resolution process for each type of claim must be clearly stated. Also, the Microsite should have instructions on various legal aid possibilities for Athletes without resources to file a claim.

- Specific Implementation Step 1.13 - The USOPC, with the assistance of the AAC, should develop a list of current Athlete rights and such list should be placed on the recommended “secure, one-stop-shop” Microsite.



### Recommendation 2: Support and Oversee NGBs

The USOPC should develop and provide additional support for NGBs, including shared services and dedicated pipeline funding, while rejecting the past "money for medals" focus.

The USOPC must (i) certify NGBs, (ii) ensure ongoing compliance with comprehensive USOPC certification requirements, (iii) oversee corrective steps by NGBs to correct non-compliance issues, (iv) provide penalties for non-compliance, and (v) serve as the NGB for a given sport where its previous NGB has been decertified.

### NGB Support

Programmatic and Pipeline Support. The USOPC's current NGB funding paradigm must change. The many NGB organizations range from small and struggling to large and with substantial resources, and they have different levels of sophistication and professionalization. They need assistance. The USOPC must go beyond only providing funds for Competing Elite Athletes and NGBs that the USOPC deems likely to win medals in the next Games. Although maintaining such medal driven programs is important, other programmatic funding and support (e.g., training and competition grants, access to Olympic Training Centers) programs must be offered to NGBs based on the USOPC's approval of an NGB's strategic plan and high-performance plan and its performance in accordance with such plans. A number of NGBs need support for pipeline development, and such needs vary among the NGBs. Some NGBs rely on collegiate sport programs for their pipeline of Athletes. Some NGBs have significantly large memberships providing funds needed for pipeline development efforts. Some NGBs, however, essentially have no pipeline for developing Emerging Elite Athletes. Where there is no significant pipeline, the USOPC must work with such NGBs to identify the best methods to create the needed pipelines and to fund such efforts.

- Specific Implementation Step 2.1 - The USOPC must provide opportunities for NGBs to receive programmatic funding and support based upon the USOPC's approval of an NGB's strategic plan and high-performance plan and its performance.

The USOPC must work with appropriate NGBs to identify and provide appropriate pipeline development support for NGBs lacking a robust club or school-based pipeline of developing athletes.

Shared Services. The USOPC should offer a suite of shared services for NGBs who opt or need to use them. The USOPC already provides some such services, but many other basic services should be provided at cost. Such optional NGB services should include support in

the areas of SafeSport compliance, human resources, legal services, commercial insurance, financial and accounting, strategic planning, athlete career planning, communication, and other possible back-office services, etc. The Commission believes that robust shared services program can help NGBs concentrate more on compliance (including athlete protection) and Emerging Elite Athlete and Competing Elite Athlete development. In addition, the USOPC must provide a system for NGBs to handle those SafeSport athlete abuse matters that SafeSport reverts to the NGBs (e.g., bullying). The Olympic and Paralympic Movements in the United States need stable, healthy, enabled and athlete-protective NGBs and Paralympic equivalents.

This recommendation comes with one caveat. The USOPC must become a best-in-class operational entity. If shared services are to be provided, the services must be top-notch. The USOPC must encourage and insist upon a very high level of performance by its staff at all levels, commensurate with what is expected from the Athletes and the NGBs.

There are many advantages to shared services that are widely known and agreed upon. For example, shared services will potentially help timely identify and mitigate NGB financial or operational challenges. It is anticipated that shared services will result in lower costs due to economies of scale and savings can be re-allocated to the highest and best use of the funds, e.g., better protection and training of athletes and better pipeline development.

- **Specific Implementation Step 2.2** - The USOPC must develop and deliver shared services to be provided at cost to support NGBs that choose to use such services.

**Basic Stipend.** Finally, each NGB, based on financial need, also should be able to apply for and receive a set stipend to help it meet its basic governance and organizational costs, especially considering its increased compliance costs. However, in each case, all funding should be subject to, and a condition of, the USOPC's satisfactory financial audit and compliance certification of an NGB, and if there are any deficiencies, then performance in accordance with the USOPC's corrective action plan must be invoked to remedy such deficiency.

- **Specific Implementation Step 2.3** - The USOPC must provide, based on a financial need, a set basic stipend to NGBs to help them meet their governance and organizational costs.

**Repudiation of "Money for Medals".** Given the problems created by the "money for medals" USOPC position, the USOPC should formally and clearly communicate publicly a change in direction when it comes to the funding of NGBs. The USOC must articulate frequently and consistently that healthy, successful athletes are at the center of all decisions, including funding decisions.

- Specific Implementation Step 2.4 - The USOPC should clearly articulate that the winning of medals remains an important goal of the USOPC; however, the winning of medals must be only one of many factors when determining NGB funding levels.

### Certification of NGBs

Need for Certification. In light of the Ropes & Gray Report and the E&C Committee Report findings, and given the conclusions of the Borders Commission, it is essential that the USOPC make a significant adjustment in its relationships with NGBs. No longer may the USOPC take a hands-off approach with NGBs by merely "recognizing" NGBs. The past hands-off approach to NGBs must be replaced with a robust USOPC oversight role of certification and enforcement. A list of NGB requirements already exists in some manner but must be expanded and formalized as a comprehensive set of certification requirements which explicitly cover Athlete protection, requisite compliance and agreed good governance practices. Proper protection of Athletes requires such an engaged approach. In taking on this role, the certification requirements must be thorough and clear. Certification requirements must be applicable to all NGBs, without exception.

The Commission recognizes that NGBs in many cases serve a much wider group of athletes than the USOPC. However, the certification requirements, especially regarding Athlete protection requirements, will benefit the entire NGB service footprint. That said, the USOPC must insist on satisfaction of all certification requirements as they relate specifically to Athletes.

The USOPC certification process should include the imposition of consistent compliance requirements with well-stated governance requirements and operating standards and procedures. It is abundantly clear that the USOPC has the implicit authority to exercise needed control over the NGBs, especially related to the protection, service and advancement of Athletes.

The governance and operational standards discussed in this Final Report should also be required of the NGBs, e.g. direct elections/re-elections and Compliance reporting. It is clear that some NGBs are not following proper governance practices. During its work, the Commission learned of unacceptable NGB board election issues as well as inconsistent and inadequate NGB practices and protections. Such inconsistencies were highlighted in the E&C Report. To remedy such problems, the USOPC must have and exercise authority to ensure representative board structures, functional governance and effective operational practices (e.g. adoption and implementation of board selection criteria and conflicts of interest policies) and consistent operational compliance with athlete protective requirements and measures. The USOPC should develop an appropriate tool to measure

the effectiveness of NGB board and officer leadership in terms of compliance efforts, fulfillment of high-performance standards, good governance structure and effective operations and the protection of Athletes.

It is critically important for the Commission to emphasize that the abuse of Athletes could be worse than what has been revealed to date. The Commission is concerned that abuse, sexual or otherwise, could be occurring in nearly every sport at some level. It is for this reason as well that the Commission recommends the USOPC oversee and certify all NGBs, regardless of size and financial strength. Without such oversight, it will not be possible to begin to transform the current broken ecosystem of elite sport. NGBs are a significant part of the broken system; therefore, they must be supported with direct oversight and certification.

Finally, it is important for the Commission to recognize the efforts of current senior USOPC leadership who have already begun developing a robust certification system. Investment in such efforts must continue at an accelerated pace and broadened scale. The USOPC is on the appropriate path to executing some of the implementation steps as recommended.

- **Specific Implementation 2.5** - The USOPC must develop and adopt a comprehensive list of certification requirements applicable to all NGBs. The certification requirements must cover, at a minimum, (i) Athlete protection; (ii) proper governance structures, procedures and operations; (iii) acceptance of and compliance with child safety protection rules and guidelines, including SafeSport requirements; (iv) compliance with financial standards and reporting practices; (v) satisfaction of operational and cultural assessment goals; (vi) satisfaction of high-performance goals; and (vii) effective and efficient dispute resolution procedures.

**Trust to be Earned.** It is critically important that trust be earned again by the USOPC. Trust requires transparency, consistency and fairness. Going forward, decisions and the actions of the USOPC must be directed to fulfilling the USOPC's role of protection, service and advancement of Athletes. No longer can concerns about the reputation or perceptions of the USOPC have an impact on how the USOPC oversees NGBs and their Paralympic equivalents and in some cases enforces their compliance. NGBs and their Paralympic equivalents are an integral part of the USOPC's mission. NGBs must be overseen by the USOPC in areas that impact Athletes. The participation of NGBs on the Board should serve as their voice to influence senior USOPC leadership.

- **Specific Implementation Step 2.6** - The USOPC must be open, transparent and thorough in its certification process and conclusions.



**Audit Process.** A recurring and thorough audit process is needed to ensure continued compliance by NGBs, including for the protection of Athletes. In addition to the USOPC's current financial audits of NGBs with respect to the use of funds provided by the USOPC, the USOPC must undertake biennial compliance audits of all NGBs against the certification requirements. For NGBs with prior compliance issues, more frequent audits should be implemented as needed.

In all compliance issues regarding Athlete protection issues uncovered during an audit or otherwise the USOPC must take immediate steps to ensure timely reporting of the issue to proper authorities (including the Center for SafeSport) and to ensure or monitor the timely resolution of the issue.

- **Specific Implementation Step 2.7** - The USOPC must put into place a recurring and thorough audit process designed to identify compliance and noncompliance with comprehensive USOPC certification requirements.

**Action Required for Noncompliance.** If an NGB is non-compliant, then the USOPC must prepare a corrective action plan to correct the non-compliance which the NGB must implement. If the NGB, for whatever reason, is unable to properly correct its noncompliance in a timely manner, the USOPC must be able to impose a range of penalties, as needed, to force any further corrective NGB steps required to resolve the issue as soon as reasonably possible. The USOPC also must have the power and authority beyond the SafeSport process to intervene into the operations of an NGB to correct any Athlete protection concerns that are not immediately resolved by the NGBs. The USOPC must be willing and quick to impose penalties short of de-certification of an NGB. When the USOPC exercises its power to decertify, the USOPC must be prepared and willing to serve as a temporary NGB for service to Athletes in the NGB's given sport.

In order to meet the requirements above, the Commission recognizes that a number of proactive steps must be taken to improve the USOPC's capability to audit, impose penalties, enforce compliance, and take-over for noncompliant NGBs. Such steps will likely require the re-allocation of resources at the USOPC.

- **Specific Implementation Step 2.8** - The USOPC must take corrective steps when circumstances require such action, including the formulation of a corrective action plan and the imposition of penalties on NGBs for noncompliance. The USOPC must be prepared to decertify a noncompliant NGB.

**Membership Change.** A change must be made to the traditional point of view of "membership" in the USOPC. The Commission recommends that only NGBs, HPMOs and PSOs should be members of the USOPC. USOPC members will be those entities subject to the extensive USOPC certification, audit and enforcement policies and procedures described

herein. Prospectively, the USOPC may recognize "affiliates"; however, affiliates will not be subject to the extensive compliance and certification requirements of the USOPC. Affiliates, however, should be required to implement Athlete safety requirements and procedures in order to be named affiliates of the USOPC.

- **Specific Implementation Step 2.2** - Going forward, the USOPC's direct oversight responsibilities and operational duties described herein should extend to NGBs and their Paralympic equivalents, HPMOs, and if they are formed, and PSOs as these entities should be considered and remain the only "members" of the USOPC. The USOPC may continue to recognize "Affiliates" of the USOPC. The USOPC should impose Athlete protection requirements on Affiliates, but the audit process described herein should be applicable only to USOPC members - NGBs, HPMOs and PSOs. The USOPC should develop applicable Athlete protection requirements for Affiliates.

### **Recommendation 3: Increase Organizational Accountability**

The USOPC must set a new standard of professionalism in sports organizations, ensuring accountability, compliance and sustained enterprise performance to support Athletes and the Olympic and Paralympic Movements in the United States.

### **Chief Compliance Officer, Compliance Committee and Whistleblower Policy**

**Chief Compliance Officer.** The Commission discussed at length how to effectively ensure internal compliance by the USOPC and how the USOPC should best manage its compliance activities, including the certification process relating to NGBs. It is clear that a Chief Compliance Officer (a "CCO") is needed at the USOPC. A federal government employed Inspector General could be beneficial, however, if Congress desires to holistically oversee the entire Olympic and amateur sports landscape, i.e. the USOPC, the Center for SafeSport, NGBs and their Paralympic equivalents, USADA and all US scholastic and youth sport organizations. But even if Congress determines that an Inspector General is needed, the USOPC must also have a CCO in place with proper duties and responsibilities.

The CCO should be a USOPC employee, but the CCO must also answer to the Compliance Committee, discussed more fully herein. The CCO must be given broad and primary authority for overseeing compliance within the USOPC with internal policies, procedures, rules and regulations while also ensuring compliance by the USOPC with applicable laws and regulatory requirements. The CCO should be responsible for establishing proactive standards and operating procedures designed to best ensure compliance. Such standards and procedures must be designed to proactively prevent issues, identify instances of

lack of compliance and provide for corrective measures and penalties when there is non-compliance.

By way of example, the CCO should be responsible for (i) USOPC compliance with Athlete protection, SafeSport and child protection rules and regulations, (ii) USOPC compliance with IRS charitable rules and regulations, (iii) compliance with the TSA, and (iv) compliance with internal athlete-centric, cultural and diversity policies and procedures, to name a few. If at any time there is a possible NGB compliance issue that comes to the attention of the CCO, especially regarding issues of Athlete protection, the CCO must take immediate steps to address the non-compliance issue and a full audit as described in this Final Report should be initiated immediately. In all such cases, it is not sufficient for the CCO to simply pass the investigation and resolution of an issue off to an NGB without follow-up. If an NGB is required to take corrective action, the CCO must follow-up regularly and often to ensure that the compliance issue is resolved as soon as reasonably possible. The CCO must meet with the Board as described below.

- Specific Implementation Step 3.1 - The USOPC must appoint a Chief Compliance Officer to oversee all compliance efforts of the USOPC and the NGBs.

The Compliance Committee. A USOPC Compliance Committee must be created to help ensure USOPC compliance and that the USOPC correctly performs its NGB oversight and enforcement role and to provide support, direction and guidance to the CCO. It is not the intent of the Commission to create additional complicated bureaucracies.

The Compliance Committee must be an expert body in both sport and governance. The Compliance Committee should be composed of, in part, experts in a variety of fields, including, but not limited to, compliance, Athlete protection and financial and audit oversight. The Compliance Committee should include 20% Athletes, including those who meet the eligibility requirements of the AAC and at least one Athlete who meets the eligibility requirements of the AAC but for the Ten-Year Rule. Former executive officers and board members of the USOPC and NGBs and their Paralympic equivalents, and other sport bodies may serve on the committee, but current representatives from the USOPC or NGBs or their Paralympic equivalents should not. The Compliance Committee will provide direction and guidance to the CCO and USOPC staff handling the day-to-day certification and compliance process. In addition, the Compliance Committee or a group thereof must and will be able to assist in resolving compliance disputes with NGBs.

The Compliance Committee must be regularly informed by the CCO of (i) the status of the NGB certification and compliance process; (ii) any material NGB non-compliance issues; and (iii) any corrective steps deemed necessary by the CCO as to NGBs, including the imposition of penalties or de-certification. The Chair of the Compliance Committee or her or his designee must meet with the Board as described below.

- **Specific Implementation Step 3.2** - The USOPC must create a Compliance Committee to provide support, direction and guidance to the CCO and be involved in the certification, audit, penalty imposition and decertification process.

**Whistleblower Policy.** The USOPC has a whistleblower policy currently set out in the Athlete Code of Conduct. This policy must be expanded and improved significantly and made easily available in a prominent and accessible online location, including but not limited to the Microsite for integrated Athlete access. The USOPC should consistently and repeatedly educate Athletes, their families, USOPC staff, NGB staff, coaches, independent contractors of the USOPC and NGBs, and USOPC and NGB volunteers about the new whistleblower policy and how to submit abuse and noncompliance claims. All whistleblower reports should be directed to the CCO. The CCO must be given broad authority and responsibility to ensure that complaints involving Athlete abuse are directed immediately to the Center for SafeSport, if applicable, and to ensure that all other claims are properly sent to those best suited to investigate and properly address such claims on a timely basis. All whistleblower claims should be tracked and followed to ensure that each is properly addressed in a timely fashion. Every USOPC and NGB staff person member must be required to report Athlete abuse of any nature and to report other noncompliance actions as soon as reasonably possible. Failure to report Athlete abuse should be grounds for immediate termination.

One essential responsibility of the CCO will be to take all reasonably necessary steps to ensure that there is no retaliation for whistleblower reports. The details of how to best protect whistleblowers is left to the policy development discretion of the CCO's office.

It may not possible to stop every single instance of Athlete abuse; however, it is possible to empower people and to encourage them to report each instance of abuse without fear of retaliation.

- **Specific Implementation Step 3.3** - The USOPC must develop and implement a best-in-class whistleblower policy and reporting system that is easily accessible and effective and that encourages reporting of all types of abuse and failures in protecting, servicing and advancing Athletes.

**CCO and Compliance Committee Reporting to the Board.** In order for Board members to fulfill their fiduciary duties and, among other things, to ensure USOPC is in compliance and that the NGB certification process is correctly implemented, the CCO and the Compliance Committee must provide reports to the Board. Board members must be aware of all compliance issues.



Each Board meeting, the CCO must provide a report to the Board discussing all compliance or certification issues or disputes, including disputes where the USOPC had decided not to take over the claim, and the nature of the whistleblower claims during the previous year and a summary of the time taken to address and resolve each claim and an assessment of the quickness or lack thereof of Center for SafeSport to respond to claims made to it.

The Compliance Committee Chair and their designees must meet with the Board at least annually in open as well as executive session, as appropriate, to discuss the CCO's performance, the CCO's report, including any matters of disagreement between the Compliance Committee and the CCO with respect to any matter.

- Specific Implementation Step 3.4 - The CCO and Compliance Committee must provide the described reports to the Board.

#### Recommendation 4: Transform Organizational Behavior

The USOPC must redesign its culture and staff to prioritize the protection of, service to and advancement of Athletes to ensure a best-in-class organization poised to leverage the competitive advantage of diversity and inclusion.

### Culture

Change Needed. Those interviewed by the Commission often referred to current USOPC staff members as people more interested in protecting their own job than in the support, protection and advancement of Athletes. In interactions with USOPC senior staff, however, the Commission encountered staff members fully dedicated to serving Athletes properly and well. That being said, better staff alignment at all levels with a prioritized athlete-centric mission must be accomplished.

In May 2019, two Commission representatives were invited to attend a USOPC strategic planning workshop hosted by senior USOPC leadership in Denver, Colorado. At the workshop, the Commission representatives saw significant changes to the USOPC approach, signaling a turn toward becoming more athlete-centric. At the planning workshop, a draft of the new USOPC mission statement was presented and later adopted. The Commission strongly encourages USOPC senior leadership to revisit this new mission statement. As written, the first part of the draft mission statement can be read as a continuation of a "money for medals" focus by the USOPC. The Commission recommends that the USOPC mission statement be changed so that Athlete protection, service and advancement is front and center. As a 501(c)(3) organization, the mission statement sets the standard upon which the success or failure of the USOPC will be judged, against which the entity will be held accountable and to which the Directors owe their fiduciary duties. The current

draft of the mission statement has the fingerprints of the past, and if the current draft is adopted, the mission statement will create conflicts between the proposed mission statement and the recommendations of this Final Report.

One effective step to change staff culture is to hire more qualified Athletes inside the USOPC at midlevel and senior levels. The Commission recommends that, for every mid-level executive and above job opening at the USOPC, there should be a pool of properly trained and educated Athletes for consideration. The Commission is not suggesting the hiring of unqualified Athletes for positions. Rather, the USOPC should be intentional and deliberate in its efforts to train Athletes for future executive positions within the USOPC, NGBs and their Paralympic equivalents.

Finally, the USOPC must engage a third party to conduct an annual assessment of its culture to monitor the progress toward a more athlete-centric one and assess how the organization's culture is aligning with its stated mission. The USOPC must also find sustainable ways to build the trust of Athletes with a newly focused culture, e.g. soliciting and including Athlete voices during staff and department reviews.

And given the many recent new hires at the USOPC from outside the Olympic and Paralympic Movements, special and ongoing training must be provided to senior and key staff with respect to: (i) knowledge of the "US Model of Sport" and athlete development; (ii) institutional history of the USOPC; (iii) the roles of the various stakeholders and other interested parties in the Olympic and Paralympic Movements; and (iv) this Final Report, the Ropes & Gray Report, the E&C Report and all previous commission reports from USOPC or Congressionally-mandated commissions that have reviewed the USOPC's structure and operations. Like the Board, this will ensure better understanding of the challenges and mistakes of the past and likely help ensure the USOPC does not lose its way again.

- **Specific Implementation Step 4.1** - The USOPC must intentionally cultivate an improved staff culture of serving the primary constituent group, Athletes, to better protect, serve and advance Athletes and to drive optimal competitive performance.
- **Specific Implementation Step 4.2** - The USOPC must engage a third party to conduct an annual assessment of its culture to monitor its evolution toward being more athlete-centric and measure how the organization's culture is aligning with its stated mission.
- **Specific Implementation Step 4.3** - The USOPC must develop and deliver the described best-in-class training for all senior and key staff.

**Reporting of Abuse.** The current culture of elite sport, combined with the misplaced priorities of protection of individual positions over the protection of Athletes, requires aggressive measures to be taken by the USOPC to significantly change personal behaviors when

an individual staff member becomes aware of any type of Athlete abuse. No longer can protection be the responsibility of someone else or some other entity. The most important priority of the USOPC must be to protect Athletes. Thus, there must be zero tolerance for abuse and zero tolerance for the failure to report and immediately address any form of abuse consistent with SafeSport and federal and state laws. Going forward, everyone at the USOPC must feel a moral imperative to report abuse.

- Specific Implementation Step 4.4 - The USOPC must cultivate and enforce a moral imperative and professional directive for every employee at every level within the USOPC and NGBs to report any form of Athlete abuse to appropriate authorities, including to SafeSport and requisite law enforcement authorities.

### USOPC Staff

Better Alignment with Athlete Service Levels and Satisfaction. The USOPC already has instituted changes in compensation to better align staff bonuses with Athlete service and satisfaction levels but more needs to be done. Bonus compensation is now, at least in part, focused on some metrics designed to reward proper Athlete protection, service and advancement efforts. The USOPC should add even more specific servicing metrics and align incentives even more to accelerate and institutionalize the required culture shift at the USOPC.

- Specific Implementation Step 4.5 - The USOPC must take additional steps to better align staff compensation and performance metrics with an athlete-centric mission.

Increase Diversity and Training of Staff. The Commission commends the senior staff at the USOPC for recently hiring more women in key leadership roles; however, there is a historical lack of racial, ethnic and experiential diversity at the USOPC. It appears this gap resides with current staff as well. When an organization's diversity closely matches those served by the organization, service levels and operational performance improve. The unique experiences and challenges faced by different groups should be considered in hiring decisions. The Commission is not proposing quotas of any description, but rather an intentional effort to include diverse, qualified candidates in hiring pools. An organization that does not look like its primary constituent group is making inadequately informed and suboptimal business decisions. The recommendations in this section should apply equally to the USOPC and NGBs and their Paralympic equivalents.

In some cases, the location of an office impacts the ability to attract diverse candidates. The Commission encourages the USOPC to consider appropriate uses of technology to help mitigate self-imposed location challenges.

Annual cultural assessments, as previously discussed, should include a section on diversity efforts and improvements within the USOPC. To optimize organizational performance and build credibility, the USOPC, NGBs and other Olympic and Paralympic related organizations must get serious about significant improvements in this area. To this end, diversity and inclusion objectives should be established, tracked and delivered.

- Specific Implementation Step 4.6 - The USOPC must take deliberate and appropriate steps to improve diversity of staff at the USOPC to better match qualities, experiences and perspectives of Athletes served by the USOPC.

#### Recommendation 5: Enable Congressional Oversight

The USOPC must be more transparent in sharing its achievements as well as its ongoing challenges, building trust and creating support from the Athletes and the American public-at-large for the Olympic and Paralympic Movements in the United States.

The TSA must be amended to give the USOPC explicit power, in addition to the current implicit powers, to better protect Athletes and to make changes needed to implement the full set of recommendations outlined in this Final Report.

### Report to Congress

Annual Report. In an effort to ensure that the USOPC fulfills its broad mission, especially relating to the protection, service and advancement of Athletes, the USOPC must each year provide a substantial report to Congress highlighting both successes and failures within the Olympic and Paralympic Movements in the United States. This report must outline the flow of funds, both to athletes and NGBs, as well as the criteria used to determine the amounts which are distributed. Such annual report must be made public and easily accessible by Athletes and any others interested in the USOPC's performance. The Commission considered whether such reports to Congress should be annual or every two years. In light of the past problems with the USOPC and the resulting current lack of trust, it is wise at this time to require annual reports be sent to Congress.

The current annual report provided by the USOPC to Congress primarily provides financial summaries. The Commission recommends that the USOPC provide a detailed package of reports and relevant information to Congress annually. In addition to detailed financial information about the operations of the USOPC, at a minimum, Congress should receive the following reports and information from the USOPC:

- a report from the Compliance Committee certified by the CCO highlighting the areas where the USOPC has and/or has not met its own compliance standards during the previous year. Unresolved deficiencies must be accompanied by a detailed corrective action plan with specific dates for future compliance.
- a copy of the most recent annual, third-party administered and reported culture assessment of the USOPC certified by the CEO. This report should quantify the improvements or the lack thereof to the diversity of the USOPC and NGBs.
- a report from the Compliance Committee certified by the CCO highlighting the compliance or lack thereof of each NGB during the previous year. Where there has been noncompliance by an NGB that has not been resolved, a detailed corrective action plan from the USOPC with specific dates for future compliance must be provided. The report also must include a grade or ranking of the NGBs based upon USOPC financial and compliance audits from the immediately preceding year and state any corrective actions taken in response to such audits.
- a report from the CCO providing summaries of the number of whistleblower claims received, the average times it took to investigate and resolve the claims, and details about the nature of the whistleblower claims. This report should also include an assessment of the quickness or lack thereof of the Center for SafeSport in responding to and resolving the claims filed with it.
- all NGB audits and improvement plans from the immediately preceding year must be provided. The original findings from the audits, including detailed description of the issues found in the initial audits, must be included in these reports.
- **Specific Implementation Step 5.1** - The USOPC should provide an expanded and detailed annual report to the U.S. Senate and U.S. House of Representatives as outlined above.

### TSA Revisions

**Required Amendment.** Initially, the Commission was not in favor of examining the TSA for revision. During the Commission's work, however, it became clear that the TSA, which was first introduced in 1978, was in need of updating. After realizing the extent of the mistreatment of Athletes, the instances of improper actions or inaction by NGBs and the desperate need for better oversight of the Olympic and Paralympic Movements in the United States, the Commission changed course. The Commission has proposed a specific and deliberate number of key changes to the TSA that will be required to fully implement the



recommendations made herein. The objectives to be accomplished with these changes are to put the USOPC in its proper place as the accountable leader of these Movements, to give it the explicit power required to oversee these Movements correctly, in addition to the current implicit power and to ensure full and unfettered protection of Athletes. Recommended changes to the TSA to accomplish these objectives are marked in the document attached as Exhibit D.

- Specific Implementation Step 5.2 - The USOPC should deliver a mark-up of proposed Amendments to the 1978 Ted Stevens Olympic and Amateur Sports Act, amended in 1998, to Congress.

### Conclusion

Evolving Enterprise. The USOPC has been at the forefront of the amateur sport space for more than four decades. And while sometimes imperfect during its tenure, the USOPC has demonstrated the capacity and capability to acknowledge mistakes, address the challenges and act on a new standard. The historic use of Commissions - a mixture of internal and external voices - to understand and accommodate needed change is a testament to the USOPC's perseverance and endurance in the face of adversity.

The Commission recognizes the limitations of the USOPC's current abilities and funding and acknowledges that there simply are not nearly enough resources for the USOPC to fully oversee all amateur sport in the United States. That said, the USOPC does have an opportunity to reflect and self-evaluate in real-time. In fact, in the face of difficult circumstances, it is not only possible for the organization to continue to evolve and improve, but a negative situation actually compels the organization to change in order to survive and ultimately thrive again. In light of the current crisis and the desire to strategically position the USOPC, NGBs and Paralympic equivalents for future sustainability and success, the USOPC should remain vigilant in its support of SafeSport and diligent in its execution of the Borders Commission recommendations outlined in this Final Report. The goal is to be a best-in-class organization; thereby, honoring athletes - enabling them to focus on their craft and to compete successfully with clear minds and fit bodies.

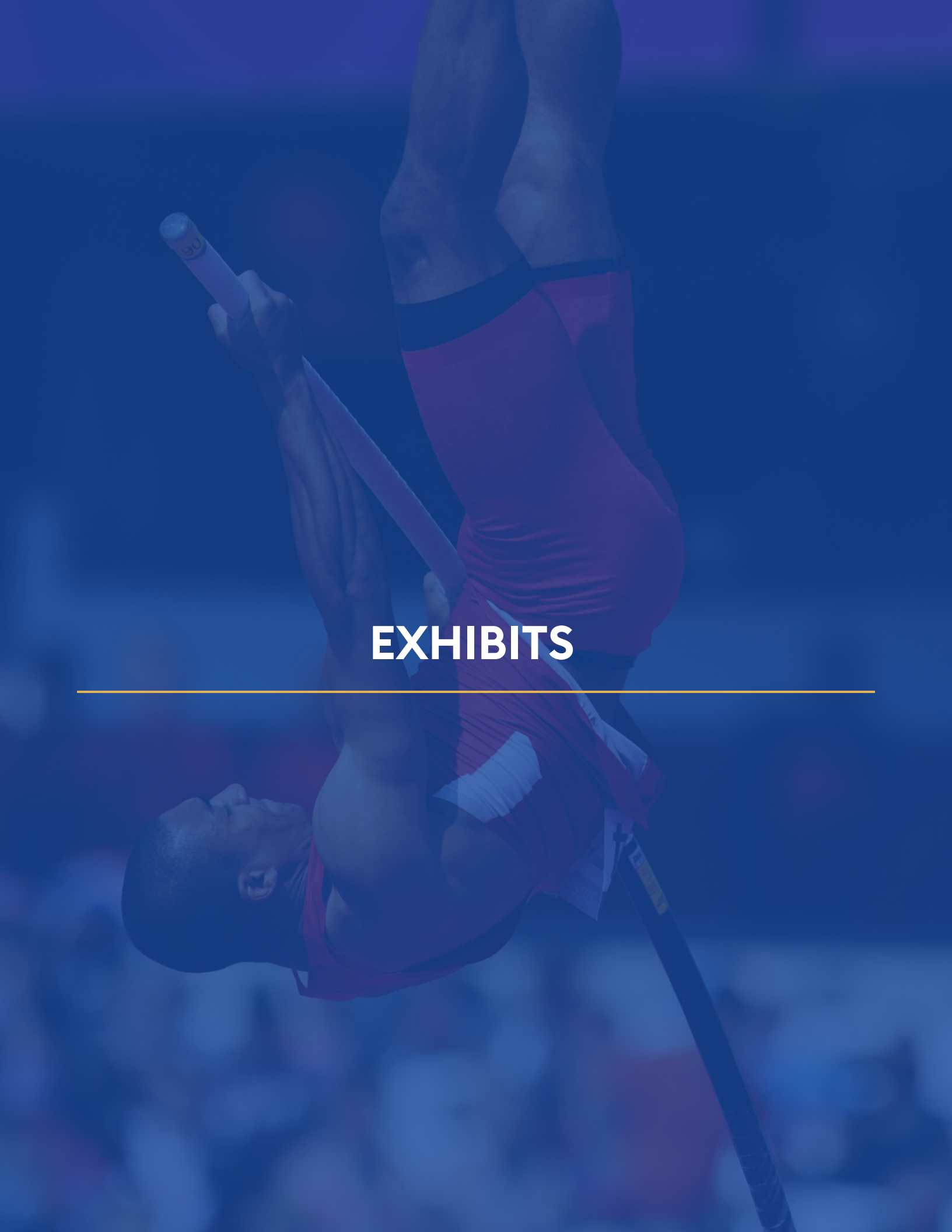
Additionally, the USOPC has the ability to positively affect amateur sport at all levels throughout the United States. Taking on such an important and impactful role requires the USOPC to lead by example in its efforts to protect and support Athletes. Such efforts have the potential to set innovative standards for other sport organizations in the United States at every level. Simply put, the USOPC has the opportunity and the obligation to transform the training and cultural environment for athletes in the United States, offering a shining beacon of what should and can be for Athletes.

A photograph of an ice hockey player in a blue USA jersey, white helmet, and red gloves, skating on an ice rink. The image is overlaid with a semi-transparent blue filter. The player is in a dynamic, forward-leaning position, holding a hockey stick. The background is a light blue gradient.

# FINAL REPORT RECOMMENDATION TABLE

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BORDERS COMMISSION				
THE UNITED STATES OLYMPIC AND PARALYMPIC COMMITTEE				
JULY 2019				
MONTH	YEAR	ACTION	RECOMMENDATION	COMMENTS
July	2019	Amend Ted Stevens Act (TSA)	# 5 - 5.2	Deliver to Congress; Congressional Action Required
October	2019	Augment & Communicate Whistleblower Policy	#3 - 3.3	Perform rigorous review
October	2019	Discuss New NGB Funding Paradigm	#2 - 2.4	No More 'Money for Medals'; new approach Launch Date TBD
November	2019	Design, Develop & Launch Microsite	#1 - 1.6	Select Subject Matter Experts (SMEs) to design & execute a "Secure, One-Stop Communication Platform (ADA & GDPR compliant)
November	2019	Reimagine Ombudsman Role; Design Pro Bono Law Resources	#1 - 1.9; 1.10; 1.11	Collaborate w/AAC & NGBs for input, insights & innovation
December	2019	Hire CCO & Establish Compliance Committee	#3 - 3.1; 3.2; 3.3; 3.4	Execute New Hire
December	2019	Prepare & List Athletes' Rights on Microsite	#1 - 1.13	Current Rights, e.g. USOPC Bylaws Sections 8, 9, 10 & 11
December	2019	Design & Deliver AAC's 2020 Administrative Funding	#1 - 1.4	Collaborate w/AAC for input, insights & innovation
December	2019	Define & Broaden Athletes Served	#1 - 1.1	Collaborate w/AAC & NGBs for input, insights & innovation
December	2019	Develop & Launch NGB Certification Program	#2 - 2.5; 2.6; 2.7; 2.8; 2.9	Collaborate w/NGBs to establish Criteria, Communicate & Commence Certification Requirements
December	2019	Prepare Annual Congressional Report	#5 - 5.1	Package Form 990, CCO Reports, Diversity Assessment
January	2020	Design & Deliver Comprehensive Board Materials; Staff Training Materials	#1 - 1.3; #4 - 4.3; 4.4	Package, share & routinely refresh historical, regulatory & annual reporting materials for Board training & service; Staff Training too
March	2020	Deliver Pro Bono Law Program	#1 - 1.11	Research Potential Partners for Athlete Representation
June	2020	Redesign & Communicate Dispute Resolution Process	#1 - 1.8; 1.12	Collaborate w/AAC & NGBs for input, insights & innovation; Select Subject Matter Experts (SMEs) to architect new process
June	2020	Develop & Deliver Shared Services Program	#2 - 2.2	Ideate, identify & invest in areas of potential economies of scale, e.g. SafeSport Compliance, Legal
July	2020	Create & Convey Athlete Matrix, Benefit Levels and Service Expectations	#1 - 1.1	Collaborate w/AAC & NGBs for input, insights & innovation
September	2020	Deliver NGB Stipend	#2 - 2.3	Collaborate w/NGBs for input, insights & innovation; Launch Date TBD
September	2020	Align Staff Compensation Levels w/Athlete-centric Mission; Develop & Deliver Staff Diversity Plan	#4 - 4.4; 4.5	Select Subject Matter Experts (SMEs) to support these Human Resources initiatives
September	2021	Design & Deliver New Healthcare Services, including Mental Health	#1 - 1.5	Select Subject Matter Experts (SMEs) to analyze the current system & design a new system; goal: more comprehensive coverage for more Athletes at the same cost; Launch Date 2022
September	2021	Design & Deliver Athlete Lifecycle Materials	#1 - 1.6	Collaborate w/AAC & NGBs for input, insights & innovation; Launch Date TBD
September	2021	Establish Athlete Baseline Support Program	#1 - 1.7	Collaborate w/AAC & NGBs for input, insights & innovation; Launch Date TBD
September	2021	Establish Programmatic & Pipeline NGB Support	#2 - 2.1	Collaborate w/NGBs for input, insights & innovation; Launch Date TBD
June	2024	Reconstitute & Announce New USOPC Board	#1 - 1.2	Assign New Board Members to seats as the completion of terms / circumstances allow(s) replacements



# EXHIBITS

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# EXHIBIT A

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Ropes & Gray Report  
Executive Summary



# Report of the Independent Investigation

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## The Constellation of Factors Underlying Larry Nassar's Abuse of Athletes

Joan McPhee | James P. Dowden

December 10, 2018

**ROPES & GRAY**

## EXECUTIVE SUMMARY

Across two courtrooms, in early 2018, nearly 200 girls and women stood up to Larry Nassar. Facing him directly, and speaking to the world, with courage, eloquence and powerful emotion, they documented the abuse he had perpetrated, the physical and emotional suffering they had endured, and the force they had become. With one unflinching account after the next, they brought forth the full scope, depth and magnitude of the tragedy that had unfolded, over almost three decades, across America and around the globe, including in the heart of elite gymnastics, at the pinnacle of Olympic magnificence. Whether measured by the number of survivors, the tally of abusive acts, the range of adults and institutions that failed to intervene, or the span of years over which Nassar was able to perpetrate his crimes, the chronicle of his serial child sexual abuse is devastating.

In all, Nassar committed thousands of sexual assaults between the early 1990s and the summer of 2016. He abused some survivors one time, while abusing others hundreds of times over a period of many years. Nassar carefully constructed a comprehensive system of abuse. He cultivated a reputation and image as a highly-skilled, well-meaning and caring doctor, and he committed almost all of his crimes under the guise of performing medical treatments. He groomed the survivors, their families and numerous other adults into believing that he was not only a world-renowned doctor, but also an advocate for the athletes, a physician who cared deeply about his patients' physical well-being and mental and emotional health. With the cover he crafted, he became, in the words of one survivor, a "wolf in sheep's clothing," who cloaked himself in the "guise of a loving friend and medical professional."

In the late summer and early fall of 2016, in the wake of the *Indianapolis Star's* reporting on sexual abuse in gymnastics, first one survivor of Nassar's abuse came forward, and then another and another. With his survivors rising up en masse and law enforcement finally closing in, Nassar

took his work laptop to a computer service store and paid to wipe all of its content. By the next day, Nassar had placed a number of hard drives containing thousands of images of child pornography in his trash for roadside collection. The garbage truck was late, and the police seized the hard drives. On November 21, 2016, the State of Michigan charged Nassar with multiple counts of first degree criminal sexual conduct, and on December 14, 2016, a federal grand jury indicted Nassar on charges of child pornography. State and federal felony proceedings for criminal sexual conduct, child pornography and destruction of evidence ensued in three separate courts in Michigan.

Nassar pleaded guilty in federal court and two Michigan state courts, and he was sentenced, cumulatively, to between 140 and 360 years in prison. During the sentencing hearings, a survivor posed the question of what label to affix to Nassar: “A predator? A criminal? A molester? A psychopath? A pornographer? An abuser? A thief of innocence?” The survivor concluded, “They all seem so inadequate because they are. And so you will be given a number.” Nassar is currently prisoner number 21504-040, serving his sentence in United States Penitentiary Coleman II, a high-security federal prison in central Florida.

While Nassar bears ultimate responsibility for his decades-long abuse of girls and young women, he did not operate in a vacuum. Instead, he acted within an ecosystem that facilitated his criminal acts. Numerous institutions and individuals enabled his abuse and failed to stop him, including coaches at the club and elite level, trainers and medical professionals, administrators and coaches at Michigan State University (“MSU”), and officials at both United States of America Gymnastics (“USAG”) and the United States Olympic Committee (the “USOC”). These institutions and individuals ignored red flags, failed to recognize textbook grooming behaviors, or in some egregious instances, dismissed clear calls for help from girls and young women who were

being abused by Nassar. Multiple law enforcement agencies, in turn, failed effectively to intervene when presented with opportunities to do so. And when survivors first began to come forward publicly, some were shunned, shamed or disbelieved by others in their own communities. The fact that so many different institutions and individuals failed the survivors does not excuse any of them, but instead reflects the collective failure to protect young athletes.

Nassar found an environment in elite gymnastics and Olympic sports that proved to be conducive to his criminal designs. With an overwhelming presence of young girls in the sport and accepted, indeed required, intimate physical contact in the training and treatment of gymnasts, the sport rendered athletes inherently vulnerable. In addition, there were embedded cultural norms unique to elite gymnastics that eroded normal impediments to abuse while at the same time reducing the likelihood that survivors would come forward. The culture was intense, severe and unrelenting. It demanded obedience and deference to authority. It normalized intense physical discomfort as an integral part of the path to success. Young gymnasts were largely separated from their parents during their training programs and travel to competitions. And due to the demands of high-performance training and competitions, gymnasts also found themselves socially isolated – largely cut off from the world outside the four walls of the gym. These conditions, coupled with the driving intensity of the cultural expectations to be perfect every day, and every minute of every day, taught these young gymnasts to toe the line. They learned not to rock the boat if they were to achieve – after years of immense personal sacrifice and tremendous commitment by their families – the dreams they had been chasing, year in and year out, for almost the whole of their young lives.

Given these cultural conditions and features of the sport, implementation of, and rigorous adherence to, formal structures and policies reflecting the highest standard of care were required to protect vulnerable young athletes. Yet the USOC and USAG did not keep pace with best

practices being adopted by other youth-serving organizations. Instead, they made decisions regarding appropriate roles and responsibilities for their respective organizations that did not embrace a child-first approach and led to stark failures in implementing effective measures to protect athletes from sexual and other forms of abuse. Nassar's ability to abuse athletes for nearly three decades is a manifestation of the broader failures at USAG and the USOC to adopt appropriate child-protective policies and procedures to ensure a culture of safety for young athletes. Although neither organization purposefully sought to harm athletes, both adopted general governance structures and specific policies concerning sexual abuse that had the effect of allowing abuse to occur and continue without effective intervention.

As the USOC evolved toward a more traditional corporate governance model, it did not meaningfully involve athletes in decisions or policy-making; nor did it provide an effective avenue for athletes to raise and resolve complaints involving sexual misconduct matters. The complaint process that did exist had been designed, consistent with the purposes of the Ted Stevens Olympic and Amateur Sports Act of 1978 (the "Ted Stevens Act" or the "Act"), to protect athletes' rights to compete in Olympic sports. The USOC did not have specific processes in place during the period of Nassar's abuse that were sufficient to protect athletes from sexual abuse.

The USOC also chose to adopt a deferential, service-oriented approach to the National Governing Bodies ("NGBs"), including USAG. In this governance model, the USOC exerted its broad statutory authority and monetary influence over individual sports primarily for the purpose of encouraging success at the Olympic Games, effectively outsourcing any decisions regarding on-the-ground child-protective practices to the NGBs. As a result of this approach, the USOC was not in a position to know whether the NGBs were implementing strong, effective policies. And the NGBs, operating independently, enacted a wide range of policies and procedures, many of



which failed to conform to best practices. As a result, patterns emerged across the NGBs where survivors of sexual and other forms of abuse encountered a complaint process that was difficult to navigate, poorly tailored to allegations of sexual abuse, and lacking in protections against retaliation for athletes and others who advanced allegations of misconduct against successful coaches or other adults in positions of authority. The USOC, despite having been directly informed by NGBs of the threat of sexual misconduct in elite sports, failed to address the risk until 2010, and then failed to take effective action for many years, permitting NGBs to continue adhering to inadequate and harmful policies and practices.

USAG, in particular, implemented an array of sexual misconduct policies that ranged from the proactive and well-intentioned to the convoluted and detrimental. USAG was aware of the risk of sexual abuse in gymnastics, took high-level steps to help protect gymnasts, and promoted itself as a leader in athlete protection. But despite this branding, USAG repeatedly declined to respond adequately to concrete reports of specific misconduct, and instead erected a series of procedural obstacles to timely investigation and effective response, even in the face of serious, credible allegations of child sexual abuse. USAG's actions in response to allegations against former coaches Marvin Sharp, Bill McCabe and Doug Boger highlight how in the years leading up to the revelation of Nassar's abuse, the organization ignored credible reports of abuse, and instead required the complaining party to comply with numerous procedural requirements that operated to block or delay effective action.

The USOC's and USAG's failure to exercise appropriate oversight to protect athletes from sexual abuse is perhaps best exemplified by the conditions and lack of oversight at the Karolyi Ranch. For 17 years, the Ranch was the epicenter of competitive gymnastics in the United States. Approximately once every month, members of the Women's Artistic Gymnastics Team (the

“National Team”) and other elite female gymnasts gathered from across the country to participate in rigorous training camps run by Bela and Martha Karolyi. The Karolyi Ranch, which was owned and operated by the Karolyis, was both the USAG-designated Training Center for the National Team and, beginning in 2011, a USOC-designated official Olympic Training Site. Notwithstanding the expectation of excellence associated with the imprimatur of the USOC and USAG brands, as well as that of the Karolyi training program, no institution or individual took any meaningful steps to ensure that appropriate safety measures were in place to protect the young gymnasts. And within the isolated and secluded environment of the Karolyi Ranch, “two hours away from nothing,” Nassar had broad latitude to commit his crimes, far from the gymnasts’ parents and unimpeded by any effective child-protective measures.

The institutional failures, however, extended beyond weak structural elements, governance deficiencies and failures of oversight. In the summer of 2015, when the National Team member allegations of sexual assault were squarely presented to USAG and the USOC, the two organizations, at the direction of their respective CEOs, engaged in affirmative efforts to protect and preserve their institutional interests – even as Nassar retired from the sport with his reputation intact and continued to have access to girls and young women at the college, club and high school levels. The actions of these organizations, their CEOs and other senior personnel reveal that, apart from USAG’s referral to law enforcement in the summer of 2015 and again in the spring of 2016, USAG and the USOC took no meaningful steps to protect athletes from the danger presented by Nassar. Rather, these organizations, each in their own way, maintained secrecy regarding the Nassar allegations and focused on controlling the flow of information about his alleged misconduct.

*Response by USAG* – USAG was directly presented with credible sexual abuse allegations by athletes against Nassar by no later than mid-June 2015. USAG responded by initiating and

conducting an internal investigation of the athlete complaints over a five-week period. In late July, USAG referred the matter to the Federal Bureau of Investigation (“FBI”), at the recommendation of the outside investigator USAG had retained to assess the athlete complaints. USAG acted almost immediately to provide false excuses for Nassar’s non-attendance at USAG events, thereby keeping the gymnastics community in the dark about the complaints of Nassar’s sexual abuse. USAG thereafter allowed Nassar to quietly retire under the pretense of a long and illustrious career. These actions by USAG, notwithstanding its well-founded fear that Nassar had serially abused athletes, permitted Nassar to continue to have access to young athletes and girls for another 14 months, including at other youth-serving organizations with which Nassar was known to be affiliated: MSU (Nassar’s employer); Twistars USA Gymnastics Club (“Twistars”) (where Nassar routinely treated gymnasts); and Holt High School (where Nassar served as a team doctor).

After the *Indianapolis Star*’s public exposure of Nassar in September 2016, USAG continued to take steps to control the flow of information regarding his abuse of athletes. In November of 2016, two months after the *Indianapolis Star* reported on Nassar’s abuse, and immediately following a visit to the Karolyi Ranch by Texas Rangers in search of evidence, USAG’s then-CEO, Steve Penny, directed an immediate effort to urgently retrieve all medical forms and all documents that pertained to Nassar. All such records were collected, removed and returned to USAG’s offices in Indianapolis on an urgent basis. Mr. Penny has since been indicted by a grand jury in Texas for obstructing the Texas Rangers’ investigation by “tampering with evidence,” a third-degree felony. Moreover, one month following the removal of records from the Karolyi Ranch, USAG entered into a confidential settlement agreement with a survivor of Nassar’s abuse. In the agreement, USAG conditioned its settlement of her claims – against the organization for its role in her years-long abuse by Nassar – on her agreement to sign a non-disclosure

agreement, a practice that many youth-oriented organizations had stopped a decade earlier. The non-disclosure agreement purported to prohibit the gymnast from speaking publicly not merely about the terms of the settlement, but also about Nassar's abuse.

*Response by the USOC* – In July 2015, Mr. Penny directly notified Scott Blackmun, then-CEO of the USOC, that National Team members had lodged sexual abuse allegations against USAG's National Team doctor. Mr. Penny also shared certain information with Alan Ashley, Chief of Sport Performance for the USOC, about the sexual abuse allegations. Neither Mr. Blackmun nor Mr. Ashley shared the information received from Mr. Penny with others in the organization, and the USOC took no action between July 2015 and the date the *Indianapolis Star* published its account of Nassar's child sexual abuse in September 2016. Specifically, after Mr. Penny advised Mr. Blackmun that USAG had received disturbing allegations about the gymnastics team doctor, Mr. Blackmun did not inform anyone else at the USOC of the allegations, including any member of the USOC Board of Directors or any member of the USOC SafeSport team. Mr. Ashley likewise took no action in response to the information that Mr. Penny had shared with him. Nor did Mr. Blackmun initiate any internal review or other assessment to gather facts regarding Nassar, the athlete concerns, the scope of the alleged misconduct or Nassar's ability to gain access to athletes at USOC-owned and operated facilities, such as the U.S. Olympic Training Center in Colorado Springs, Colorado. Nor did he alert other youth-serving organizations with which Nassar was affiliated to the ongoing risk of harm. And when Larry Buendorf, the USOC's then-Chief Security Officer, reported to Mr. Blackmun that he had learned from Mr. Penny that athletes had raised concerns about a doctor's "technique" and that USAG had made a report to the FBI, Mr. Blackmun told Mr. Buendorf that he was already aware of the issue and neither asked

any questions nor sought any guidance from his Chief of Security on appropriate child-protective measures.

Mr. Blackmun and Mr. Ashley also each deleted from their respective email accounts the one email referencing Nassar by name that Mr. Penny had sent to the two of them in September 2015. Further, in early 2018 – long after the *Indianapolis Star* had publicly exposed Nassar – Susanne Lyons, then a board member at the USOC and soon to become the organization’s acting CEO, sent an email to Mr. Blackmun conveying her understanding that, prior to publication of the *Indianapolis Star* article, Mr. Buendorf was the only person at the USOC who had known that Nassar was the alleged perpetrator. Mr. Blackmun failed to correct Ms. Lyons’s clear misunderstanding. He failed to explain to Ms. Lyons not only that he and Mr. Ashley had been the first to know of the allegations, but also that Mr. Buendorf, promptly after learning of the allegations from Mr. Penny, had dutifully reported those allegations to Mr. Blackmun.

USAG’s and the USOC’s inaction and concealment had consequences: dozens of girls and young women were abused during the year-long period between the summer of 2015 and September 2016.

\* \* \*

This Report sets forth in detail the factual findings of the Independent Investigation.

**Part I** provides a high-level overview of what happened, from the start to the finish of Nassar’s criminal career – from his earliest reported abuse of children in the early 1990s through late 2016, when an overwhelming number of survivor complaints finally brought him to justice. This Part addresses the courageous accounts that hundreds of survivors have publicly provided.



**Part II** examines the manner and means of Nassar’s comprehensive system of abuse, including his grooming of athletes, the facade he created for himself, and the methods he employed to “normalize” his conduct and cover for his crimes.

**Part III** sets forth who knew what when with regard to Nassar’s abuse, and what was and was not done in response. This Part looks at both individuals and institutions and tracks the early reports of Nassar’s abuse to coaches, trainers and other adults, as well as early warning signs of Nassar’s predation. It chronicles complaints to institutions and law enforcement that led to Title IX and law enforcement investigations – investigations that proved to be ineffective and allowed Nassar to slip from the grasp of direct, credible survivor reports of criminal sexual assault. This Part also identifies individual enablers and examines institutional failures that contributed to Nassar’s abuse. This Part looks in depth at the actions of USAG and the USOC and their senior leadership, and also examines deficiencies at other institutions, including, in particular, the Karolyi Ranch, where Nassar abused elite gymnasts, and the FBI, which did not move expeditiously to investigate the serious, credible allegations of Nassar’s abuse.

**Part IV** looks at the embedded culture in elite gymnastics and Olympic sport. While the culture fosters many positive values – including teamwork, patriotism and the pursuit of excellence – it also makes the sport of gymnastics inherently attractive to child sexual predators, erodes normal impediments to abuse and reduces the likelihood that survivors will raise complaints. In this unique and extreme environment, Nassar’s sexual misconduct was able to proliferate and metastasize. Without strong, affirmative child-protective measures, there was little to stand between these brave and committed young girls and the predator in their midst.

**Part V** analyzes the Olympic governance structure and the complex systemic factors that contributed to Nassar’s system of abuse and to his uninterrupted, decades-long run of criminal

misconduct. This Part reviews the choices that the USOC and USAG made to adopt self-limiting governance structures, which led to a marked disconnect at both institutions between adopted policies and effective action. This disconnect in turn permitted the unchecked growth of policies, practices and cultural norms that were not reflective of a child-first approach and led to the absence of effective, on-the-ground protective measures. The effects of the USOC's self-limiting governance structure extended beyond USAG, and likewise permitted other NGBs to implement policies and practices that failed adequately to address the risk of athlete abuse, resulting in patterns of deficiencies in complaint processes across Olympic sports.

Nassar thrived in this loose governance model. The USOC had minimal interactions with him and deferred to USAG, which in turn permitted Nassar to create a personal fiefdom where he wrote the rules and set the tone for the medical treatment of the women's gymnastics program for close to 20 years – overseeing medical care at USAG events, serving as the point person for approval of any outside medical providers, and participating in drafting rules governing sexual misconduct by the medical staff. USAG engaged in essentially no oversight of Nassar throughout the lengthy period of his serial sexual assault of gymnasts.

A photograph of a female athlete, likely a medalist, smiling broadly. She is wearing a dark blue USA Olympic Team jacket with red accents on the sleeves and a Nike logo. She has a gold medal around her neck on a colorful Rio 2016 ribbon. In her left hand, she holds a Rio 2016 Olympic torch. The background is a blurred outdoor setting. The entire image is overlaid with a semi-transparent blue filter.

# EXHIBIT B

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**Energy & Commerce Committee Report  
Executive Summary**



# **Nassar and Beyond: A Review of the Olympic Community's Efforts to Protect Athletes from Sexual Abuse**

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*Prepared by the Energy and Commerce Committee, Majority Staff*

## I. Executive Summary

The International Olympic Committee was founded in 1894 and is responsible for protecting and promoting the Olympic Movement. The American Olympic Association was established in 1921, and in 1961 the name of the Association was changed to the United States Olympic Committee (USOC). The USOC was reorganized by the Ted Stevens Olympic and Amateur Sports Act (the Act), which establishes the USOC as the coordinating body for all Olympic-related activity in the United States. The Act also establishes National Governing Bodies (NGBs) for each Olympic sport and gives the USOC the general authority to review matters related to the recognition of NGBs and to resolve conflicts and disputes involving amateur athletes, NGBs, and amateur sports organizations.

Each NGB has their own governance structure and applicable bylaws and policies. The USOC provides NGBs with governance support, and in some instances, the USOC has required changes to a NGBs bylaws related to the Act or the USOC's bylaws. At the start of the Committee's investigation, 48 NGBs were recognized, and their memberships are vast. An NGB's members are not limited to those athletes and coaches that participate in the Olympic games, but also extend to any athletes that play on teams affiliated with an NGB or NGB-sponsored event, including youth sports leagues.

In recent years, reports have documented widespread instances of sexual abuse in the Olympic community dating back at least 30 years. In 2010, a 20/20 investigation revealed that not only had there been widespread sexual abuse in the USA Swimming community, but that USA Swimming was aware of the abuse.

Following the 2010 sexual abuse scandal, the USOC created a Working Group to develop a set of recommendations for promoting safe training environments and addressing misconduct in sport. As sexual abuse reports and allegations continued to come to light in swimming and other sports, the USOC continued to implement various policies and procedures, including requiring each NGB to adopt an athlete safety program by December 31, 2013. However, reports indicate that “[b]ecause USOC left the responsibility of reporting, investigating, and adjudication to the NGBs, implementation was all over the map.”<sup>1</sup>

In 2016, media attention skyrocketed after a media report detailed how USA Gymnastics had failed to protect athletes from sexual abuse and seldom referred allegations of child abuse to law enforcement or child protective services. In addition, former gymnasts filed criminal complaints against Larry Nassar accusing him of sexually abusing young athletes. By 2018 it had been revealed that more than 300 girls and women were abused by Nassar.

The abuse and mistreatment associated with the Nassar case, as well as reports of abuse in other sports, most notably within Taekwondo and Swimming, prompted the Committee to open an investigation into sexual abuse in organized sport. In the course of the investigation, the Committee wrote to the USOC, all 48 NGBs, and Michigan State University, a former employer

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<sup>1</sup> Rachel Strutz, *unprotected*, OUTSIDE (Nov. 2014), available at <https://www.outsideonline.com/2162781/unprotected>.

of Larry Nassar. The Committee requested detailed information and documents from each entity regarding its handling of sexual abuse allegations.

The Committee also spoke with dozens of survivors of sexual abuse, advocates, and other interested parties who provided information critical to this investigation. Their stories are far too similar, and routinely described a system that failed them—regardless of the sport. The Committee’s findings should be concerning not only to Olympic athletes, but also amateur athletes, parents, and anyone who has a loved one involved in amateur sports.

During the course of the year-long investigation, the Committee uncovered a number of failures and trends within the Olympic community that contributed to the widespread instances of sexual abuse. Perhaps most troubling of the Committee’s findings is the culture within the Olympic community which prioritizes reputation and image, rather than athlete safety. The Committee heard from numerous athletes and other stakeholders about concerns that the Olympic community prioritized “medals and money” at the expense of the safety and well-being of athletes. This sentiment was mirrored in documents reviewed by the Committee. Examples included an athlete safety policy that directed a review panel to consider “the effect on the USOC’s reputation” when making decisions about imposing sanctions following an investigation,<sup>2</sup> and an email between two USOC employees discussing whether to renew a contract with the Karolyi ranch in light of the abuse that had taken place there, that seemed to indicate that the employee was weighing the fact that the ranch was a “critical facility.”<sup>3</sup>

Another issue well-documented by the Committee’s investigation is the inconsistency in policies and procedures across NGBs. Despite the USOC’s efforts to establish minimum standards and an NGB Athlete Safety Policy, due to the differences in size and sport, each NGB continues to have its own governance structure and applicable bylaws and policies. As a result, each NGB is left to implement their own structure, policies, and procedures, resulting in inconsistent implementation across the Olympic community. Examples of inconsistent policies include the universe of individuals covered by an NGB’s policies and procedures; the implementation of background check requirements; the use of banned or suspended lists by NGBs for members that have been disciplined or banned from participation in the NGB, and whether those lists are made public; and policies to handle reports, complaints, or allegations of abuse to the USOC and law enforcement.

In addition to inconsistency in policies, the Committee found that historically some NGBs did not use preventative measures such as background checks, interim measures, and public banned lists, with some NGBs implementing such policies as late as 2015. Even when NGBs did have such measures in place, the policies have not always been appropriately or adequately enforced. For example, in 2017, Baker Tilly conducted audits of all NGBs and found that 27 of 48 NGBs had background check violations. Additionally, in a few instances where the

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<sup>2</sup> United States Olympic Committee, Policy Name: Athlete Safety, Date of Issuance: 4-18-18, Policy Owner: Director of Athlete Safety, Applies to: BOD, USOC Staff, Others (as below) (2018), *available at* [https://www.usasurfing.org/uploads/1/1/3/5/113568407/usoc\\_athlete\\_safety\\_policy\\_041818.pdf](https://www.usasurfing.org/uploads/1/1/3/5/113568407/usoc_athlete_safety_policy_041818.pdf) (last visited Dec. 4, 2018).

<sup>3</sup> E-mail from Alicia McConnell, Staff, U.S. Olympic Committee, to Rick Adams, Staff, U.S. Olympic Committee (Jan. 6, 2017, 6:06:29 PM) (On file with Committee).



NGB has a publicly available banned or suspended list, the Committee found discrepancies between names included on the NGB's website and names included in the U.S. Center for SafeSport's (USCSS) searchable database.

Media attention since 2010 has helped bring light to some of these concerning practices across the Olympic community and encourage reforms. The Working Group established by USOC in 2010 resulted—seven years later—in the creation of the USCSS, which launched on March 3, 2017. Today, the USCSS oversees education programs for safe sport and investigates and adjudicates claims of sexual misconduct in the U.S. Olympic and Paralympic Movements' 47-member NGBs. Concerns have been raised to the Committee about the USCSS, however, including whether the USCSS has adequate funding to carry out their mission, and whether USCSS can maintain its independence from the USOC and NGBs.

While necessary reforms have been made, particularly in recent years, there are still many areas in which the Olympic community could take steps to improve the protection of athlete safety. This report concludes with a series of recommendations aimed to finally and definitively put athlete safety at the center of the USOC and each NGB's mission.

A photograph of three young women in dark blue tracksuits with "USA" written on the front, standing on a podium. The woman in the center is holding a medal. The background is a blurred stadium. The image has a blue overlay.

# EXHIBIT C

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**Borders Commission Member Biographies**

# COMMISSIONER BIOGRAPHIES

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Lisa Borders  
Chairperson

Lisa Borders was appointed to the United States Olympic & Paralympic Committee's Borders Commission and agreed to serve in June 2018. She most recently served as the inaugural President and Chief Executive Officer of TIME'S UP, a gender equality advocacy group leading the fight for women to have safe, fair and dignified workplaces.

Borders previously served as President of the Women's National Basketball Association (WNBA) where she was responsible for setting the vision for the League and overseeing its day-to-day business and basketball operations. Borders has worked and delivered results in all three sectors: public, private and non-profit. Prior to joining the WNBA, she served as Vice President, Global Community Affairs at The Coca-Cola Company and Chair of The Coca-Cola Foundation.

Beginning in late 2008, she was President of the Grady Health Foundation, the fundraising arm of Grady Health System, Georgia's largest public hospital and metro-Atlanta's premier Level I Trauma Center. Her public service career overlapped by one year with the Grady Health Foundation role when she served as Vice Mayor of Atlanta and President of the City Council.

She serves as a trustee of Duke University and an advisory board member of Operation Hope. She serves on the Advisory Board for the Association of National Advertisers' #SeeHer initiative, ensuring the positive portrayal of women and girls in media. Borders also supports the #ShelS movement along with Commissioners of several women's professional sports leagues in the USA and Canada. She has received numerous honors and consistent recognition for her corporate and civic work, including the Forbes.com, Most Powerful Women In U.S. Sports 2018. Borders also currently serves as a board member of the Six Circles Funds, a suite of mutual funds designed for JPMorgan discretionary portfolios.

Borders holds a bachelor's degree from Duke University and a master's of science in health administration from the University of Colorado.

# COMMISSIONER BIOGRAPHIES

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Han Xiao  
Athletes' Advisory Council Representative

Han Xiao is a former elite athlete in table tennis. Han began competing seriously at age 8. As an athlete, he represented Team USA. He competed in four world championships and the 2007 Pan American Games, where he won a bronze medal in the men's team event.

After retiring from international competition in 2009, Han began volunteering in sports governance. He was a member of the USA Table Tennis Board of Directors from 2008 to 2016 as an athlete representative and served as one of two athlete services coordinators for Team USA at the Rio Olympic Games in 2016. After serving on the United States Olympic & Paralympic Committee Athletes' Advisory Council ("AAC") as the table tennis representative from 2013 to 2016, he was elected chair of the AAC in 2017.

Han is a software developer with expertise in web application development, cloud-based analytics, data-driven analytics, knowledge management, and real-time streaming analytics. He currently works as a principal software engineer at Anthem Engineering, an engineering and consulting firm based in Elkridge, MD.

Xiao earned undergraduate degrees in computer science and general business from the University of Maryland, College Park and his master's degree in computer science Johns Hopkins University.

# COMMISSIONER BIOGRAPHIES

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Elana Meyers Taylor  
Olympic Athlete Representative

Elana Meyers Taylor is a currently competing athlete in bobsled. She is a three-time Olympian and three-time Olympic medalist (two silvers, one bronze). Most recently, she won a silver medal at the Olympic Winter Games PyeongChang 2018, becoming the most decorated American female bobsledder and tying for the most Olympic medals of any female bobsled athlete in the world. In her 11-year competition career, she has earned eight world championship medals, including four golds.

Elana has interned for the International Olympic Committee and recently was named president of the Women's Sports Foundation and co-chair for the WSF's Athlete Advisory Council.

Additionally, Elana has multiple years of experience as an athlete mentor for Classroom for Champions, a nonprofit organization that partners Olympic and Paralympic athletes with students and teachers in underserved communities. She also participated in the USOPC's Team for Tomorrow program in 2014 and 2018, in which she encouraged young people to live an active and healthy lifestyle.

Before her bobsledding career, Elana played softball at George Washington University, where she earned her bachelor's and master's degrees in exercise science. She was elected to the George Washington Athletic Hall of Fame in 2014. She also earned master's degree in business administration from DeVry University. Elana recently was awarded an honorary doctorate of public service from George Washington University.

# COMMISSIONER BIOGRAPHIES

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**Mike Schultz**  
Paralympic Athlete Representative

Mike Schultz is a currently competing elite athlete. As a Paralympic snowboarder, Mike competed at the Paralympic Winter Games PyeongChang 2018, winning the gold medal in snowboard cross and silver in banked slalom. He also was selected by his teammates to lead the U.S. delegation into the Opening Ceremony as flag bearer and received an ESPYS award for 'Male Athlete with a Disability'.

An elite athlete since 2003, Schultz lost his left leg above the knee after a snocross accident in 2008. After engineering his own prosthetic knee, he went on to earn his first motocross adaptive medal at the X Games in 2009. In 2010, he became the first person to win a gold medal at the X Games and Winter X Games. Mike continues to compete as a multi-sport athlete.

Mike is the founder of BioDapt, Inc., which helps design prosthetic equipment for wounded soldiers, extreme athletes (fellow Paralympians), and amputees who hope to return to an active lifestyle. He was inducted into the Athletes with Disabilities Network Hall of Fame in 2010.



# COMMISSIONER BIOGRAPHIES

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**Michael Lenard**  
US Olympic and Paralympic Alumni Representative

Michael Lenard is a former elite athlete and a 1984 Olympian in Team Handball. Among his other athletic honors and medals, he was named 1985 Athlete of the Year in Team Handball.

Since its founding in 1994, he has served, representing the interests of athletes, on the governing board of the international body which oversees and manages the international court that adjudicates Olympic and international sports disputes. He has served as its Vice President since 2010.

From 1981-1988, Michael was a member and then Vice Chairman of the Athletes Advisory Council (“AAC”) of the United States Olympic & Paralympic Committee (“USOPC”). During his tenure as Vice Chairman, he fulfilled an ombudsman role for athletes with complaints against their sport governing bodies and the AAC implemented initiatives that culminated in the AAC being integrally involved in the USOPC decision making process.

Michael also was a member of the 1988 Olympic Overview Commission empaneled to study and recommend a restructuring of Olympic sport. He served from 1988-1996 as the USOPC’s Vice President, was the liaison to the 1991 Independent Counsel investigation of its President and Executive Director. Michael also oversaw the promulgation and publication of the USOPC’s 1992 Coaching Code of Ethics and provided the lead testimony in the 1994 Congressional Hearings into the USOPC. From 2000-2002 he served as Chair of its Key Strategies Task Force and as Special Counsel to its Ethics Committee. He also served as a member of the board of the 1996 Atlanta Olympic Games organizing committee and its Audit and Ethics Committee. In 2003, he testified about the USOPC’s cultural and structural problems to both the Congressionally appointed Independent Review Commission for the USOPC and the USOPC’s Governance and Ethics Task Force.

Michael currently serves as Senior Adviser to 7 Bridges Capital Partners, a boutique international private equity firm. Prior to that he was a Senior Managing Director at William E. Simon & Sons/Paladin Realty Partners, an international private equity firm, wherein he also served as Chief Compliance Officer. He previously was a partner in the international law firm of Latham & Watkins.

Michael earned his bachelor’s degree in business from the University of Wisconsin School of Business and his law degree from the University of Southern California Law School.

# COMMISSIONER BIOGRAPHIES

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**Renee Washington**  
NGB Representative

Renee Chube Washington joined USA Track & Field (“USTA”) as its Chief Operating Officer in June of 2012. As COO, Renee oversees daily operations and USATF staff, with a focus on executing the organization’s strategic plan, business affairs, and constituent outreach.

Since Renee became COO, USATF has realized substantial operational cost savings while adopting new business policies and practices. Under her operational oversight, USATF has awarded three Olympic Trials, secured the IAAF World Championships, successfully participated in two Olympic Games and three World Championships, launched the US National 12K road race, hosted the meeting of the IAAF Council, and revamped its Annual Meeting, which attracts more than 1,000 stakeholders in the sport each year.

Renee previously served at Northrop Grumman Systems Corporation, where she managed a \$140+M dollar portfolio of contracts for local, state, and commercial customers. She provided leadership and business management skills to program teams and oversight of quality control, ethics, and consumer expectations. She earlier had served as the contracts department director for CICOA, a private, nonprofit agency advocate for the aged, where she oversaw compliance issues, was the point of contact for vendor contracts and coordinated contractual requirements with the operating staff.

Renee’s professional career began in government, working as an attorney for the U.S. Department of Labor in Washington, D.C. While at the Department of Labor, she advanced to Deputy Associate General Counsel and Acting Associate General Counsel, leading a team of more than 20 attorneys.

A past president of the Junior League of Indianapolis, her extensive work in social causes includes volunteering for Wishard Memorial Hospital’s Foundation Board, the Girl Scouts, American Cancer Society Guild, and numerous educational, cultural and political causes.

Renee earned her undergraduate degree at Spelman College and her law degree from Georgetown University Law School.

# COMMISSIONER BIOGRAPHIES

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Ted Morris  
NGB Representative

Ted Morris has served as the Executive Director of U.S. Speedskating (“USS”) since September of 2013. With over 25 years of sports marketing experience, he has led significant growth at the organization including expansion of USS’ sponsor portfolio, fundraising efforts, and securing a long-term broadcast agreement with NBC Sports. Morris also spearheaded a \$12 million expansion at the Utah Olympic Oval that provides state of the art high performance support to USS athletes.

Prior to his work with USS, Ted was Senior Vice President of Van Wagner Sports Group where he led their Olympic Division, which included the company’s consultative relationships with U.S Sport Governing Bodies and International Sports Federations. The group also provided Olympic consulting services to many leading brands including MetLife, Proctor & Gamble, UPS Stores, and Kellogg’s, among others.

Prior to joining Van Wagner, Ted was Vice President and Chief Marketing Officer at US Ski & Snowboard (“USSA”) for eight years. He was responsible for the organization’s revenue generating partnerships including sponsorships, media sales, TV programming, content distribution, marketing, and brand initiatives. In this role, Ted was a member of USSA’s Senior Management Team. Under his leadership, USSA had the most profitable eight-year cycle in the history of the organization.

Prior to his work in the Olympic Movement, Ted spent seven years with the advertising agency BBDO New York where he rose through the ranks to become a Vice President and Media Director handling the national TV expenditure for several Fortune 500 companies.

Ted is actively involved as a volunteer, including serving in board positions with the Winter Sports School in Park City, UT, the Utah Sports Commission, the National Governing Body Council, and the Federation of International Skiing’s Marketing Committee.

Ted earned his undergraduate degree from the University of Richmond where he was a four year member of the Varsity Water Polo and Swim Teams.

# COMMISSIONER BIOGRAPHIES

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Lorraine Orr  
Independent Youth Organization

Lorraine Orr is the Chief Operations Officer for Boys and Girls Clubs of America (“BGCA”). She leads field operations initiatives across the BGCA Movement, with a focus on strengthening the capacity and sustainability of Clubs. She also is responsible for the Movement-wide advancement of youth and Club metrics through the work of BCGA’s Planning & Measurement and Data Operations teams, youth and development programs, and child safety and protection strategies. In addition, she oversees leadership development for Clubs and BGCA national staff. She drives significant national partnerships to advance BGCA’s mission, and works closely with other senior leaders to develop and execute key strategies and initiatives that drive organizational objectives.

During her tenure at BGCA, Lorraine has held several field service roles, including Regional Vice President for the Southeast Region and her most recent position of Senior Vice President, Field Operations. Prior to her work with BGCA, Lorraine was the Chief Professional Officer of the local Boys & Girls Club in Greensboro, North Carolina and served in a number of other management positions in the area.

Lorraine’s leadership and commitment to youth have been recognized both locally and nationally. Among these honors is the coveted “Others” Award, which she received in 2015. She has also received Boys & Girls Clubs of America’s National Professional Service Award, The Professional Association’s Contribution to the Profession Award for the Southeast Region, and the National W. Errol Sewell Leadership Award for Outstanding Leadership in Field Services.

Lorraine earned her undergraduate degree from Greensboro College and has completed senior leadership programs at Kellogg School of Leadership.

# COMMISSIONER BIOGRAPHIES

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**Beth A. Brooke-Marciniak**  
Independent USOPC Board Member

Beth A. Brooke-Marciniak was the Global Vice Chair – Public Policy at EY and a member of the firm’s Global Executive Board. Beth had public policy responsibility for the firm’s operations in over 150 countries. In addition, she was the global sponsor for EY’s Diversity and Inclusiveness efforts. She has been named eleven times to the list of Forbes "World's 100 Most Powerful Women". In 2017, Beth received the Theodore Roosevelt Award, the top individual honor bestowed by the US National Collegiate Athletic Association (NCAA). She has also been inducted into the Indiana Basketball Hall of Fame.

During the Clinton Administration, she worked in the U.S. Department of the Treasury, where she was responsible for all tax policy matters related to insurance and managed care. She played important roles in the healthcare reform and Superfund reform efforts.

Throughout her career, Beth has been actively engaged in numerous civic and business organizations. She chairs the Board of Vital Voices and is a member of the Board of Directors of the United States Olympic & Paralympic Committee, The Conference Board, The Aspen Institute, Out Leadership and the Women’s Advisory Board of the World Economic Forum. She is a member of the inaugural class of the Henry Crown Fellows of The Aspen Institute, the Committee of 200, and the International Women's Forum.

Beth played basketball at Purdue University where she earned her undergraduate degree with highest distinction and received an honorary doctorate. She also has honorary doctorates from Indiana University and Babson College.

# COMMISSIONER BIOGRAPHIES

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Davis Butler  
Independent Counsel

Davis Butler is a founding partner of Butler Mersereau LLP, a corporate law firm specializing in corporate governance for both for-profit and nonprofit entities, complex corporate transactions and private securities offerings, and international sport transactions and partnerships.

Davis began his legal career clerking for U.S. District Judge Robert B. Propst in Birmingham, Alabama. He then worked at Alston & Bird, a large national law firm based in Atlanta, Georgia, as an M&A and securities lawyer. After Alston & Bird, Davis started a law firm with a mentor and, while continuing his corporate practice, began representing boards of directors of for-profit and nonprofit entities providing both strategic and legal direction and advice. In early 2000, he joined the International Olympic Committee (“IOC”) in a senior-level business and legal role managing the IOC’s TOP Programme (the world’s largest sports marketing program). He returned to the corporate practice of law in 2010.

Davis has served as president, CEO, and outside counsel to several nonprofit entities, including SportsCareConnect (a 501(c)(3) designed to protect young athletes from concussions) and Supporting Amateur Athletics (a 501(c)(3) raising money for youth participating in Olympic sports). He also owns the Ignite Sports Academy, a recreational sport organization in Atlanta providing thousands of young children the chance to play recreational basketball and soccer. Davis also is a co-founder, former board chairman, and current General Counsel of HIPnation, an innovative, disruptive healthcare delivery company based in Atlanta.

Davis recently represented the Rape Crisis Center of the Coastal Empire (“RCC”) based in Savannah, Georgia. He was asked to perform an independent review of the RCC’s governance structure and current board personnel. Davis also was asked to recommend changes to address significant RCC operational challenges and the RCC’s representation of and support of sexual abuse victims and community partners.

Davis also recently served as an adjunct professor at the University of Georgia in its Sports Management Program. He has spoken around the world on legal and sport business issues, and he has represented international brands using sport relationships to grow their respective businesses in local and growing international markets.

Davis earned his undergraduate degree from Vanderbilt University and his law degree from the University of Alabama School of Law.





# EXHIBIT D

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Ted Stevens Act Proposed Amendment

CHAPTER 2205—UNITED STATES OLYMPIC & PARALYMPIC COMMITTEE

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SUBCHAPTER I—CORPORATION

- Sec.
- 220501. Definitions.
- 220502. Organization.
- 220503. Purposes.
- 220504. Membership.
- 220505. Powers.
- 220506. Exclusive right to name, seals, emblems, and badges.
- 220507. Restrictions.
- 220508. Headquarters, principal office, and meetings.
- 220509. Resolution of disputes.
- 220510. Service of process.
- 220511. Report.
- 220512. Complete teams.

SUBCHAPTER II—NATIONAL GOVERNING BODIES

- 220521. Certification of amateur sports organizations as national governing bodies.
- 220522. Eligibility requirements.
- 220523. Authority of national governing bodies.
- 220524. General duties of national governing bodies.
- 220525. Granting sanctions for amateur athletic competitions.
- 220526. Restricted amateur athletic competitions.
- 220527. Complaints against national governing bodies.
- 220528. Applications to replace an incumbent national governing body.
- 220529. Arbitration of corporation determinations.

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SUBCHAPTER I—CORPORATION

§220501. Title and Definitions

(a) TITLE.—This chapter may be cited as the “Ted Stevens Olympic and Amateur Sports Act”.

(b) DEFINITIONS.—For purposes of this chapter—

(1) “affiliates” are those organizations that are recognized as affiliates by the corporation.

(2) “amateur athlete” means an elite athlete who meets the eligibility standards established by the national governing bodies, which standards are approved by the corporation, for the sport in which the athlete competes.

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(3) “amateur athletic competition” means a contest, game, meet, match, tournament, regatta, or

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other event in which amateur athletes compete.

(4) "amateur sports organization" means a not-for-profit corporation, association, or other group organized in the United States that sponsors or arranges an amateur athletic competition.

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(5) "arbitration body" means the entity or association of neutral arbitrators that is mutually agreed upon and appointed by the corporation and the Athletes' Advisory Council to provide alternative dispute resolution services for a two-year term for disputes described herein. If, at the end of any such term, the corporation and the Athletes' Advisory Council fail to agree upon the arbitration body for the next term, the arbitration body from the immediately preceding term shall continue until a new arbitration body is mutually agreed and appointed.

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(6) "Athletes' Advisory Council" means that independent group supported and funded by the corporation for the purpose of communicating and protecting the interests of amateur athletes.

(7) "corporation" means the United States Olympic & Paralympic Committee.

(8) "high performance management organization" means an amateur sports organization serving a Paralympic sport that is certified by the corporation under section 220521 of this title as a national governing body.

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(9) "international amateur athletic competition" means an amateur athletic competition between one or more amateur athletes representing the United States, individually or as a team, and one or more athletes representing a foreign country.

(10) "members" of the corporation are national governing bodies, as defined herein.

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(11) "national governing body" means an amateur sports organization that is certified as a national governing body by the corporation under section 220521 of this title; Paralympic sport organizations and high performance management organizations serving one or more Paralympic sports also are considered "national governing bodies" if certified as such by the corporation under section 220521 of this title.

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(12) "Paralympic sports organization" means an amateur sports organization that is certified by the corporation under section 220521 of this title as a national governing body.

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(13) "sanction" means a certificate of approval issued by a national governing body.

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#### §220502. Organization

- (a) FEDERAL CHARTER.—The corporation is a federally chartered corporation.
- (b) PERPETUAL EXISTENCE.—Except as otherwise provided, the corporation has perpetual existence.
- (c) REFERENCES TO THE UNITED STATES OLYMPIC ASSOCIATION.—Any reference to the United States Olympic Association is deemed to refer to the United States Olympic & Paralympic Committee.

§220503. Purposes

The purposes of the corporation are--

- (1) to ~~coordinate, develop, and oversee~~ amateur athletic activity in the United States directly related to international amateur athletic competition; ~~to "oversee" means to certify and to check compliance against certification requirements.~~
- (2) ~~to establish national goals for participation in amateur athletic activities and to encourage and support the attainment of such goals;~~
- (3) to ~~establish and enforce the adoption and implementation of athlete safety protections and measures relating to amateur athletic activities;~~
- (4) ~~to provide, and require national governing bodies to provide, protection of and support for amateur athletes representing or preparing to represent the United States in international amateur athletic competition.~~
- (5) ~~to exercise exclusive jurisdiction, directly or through national governing bodies or organizing committees, over—~~
  - (A) all matters pertaining to United States participation in the Olympic Games, the Paralympic Games, and the Pan-American Games, including representation of the United States in the games; and
  - (B) the organization of the Olympic Games, the Paralympic Games, and the Pan-American Games when held in the United States;
- (6) to obtain for the United States, directly or by delegation to the appropriate national governing body, the most competent amateur ~~athlete~~ representation possible in each event of the Olympic Games, the Paralympic Games, and Pan-American Games;
- (7) to promote and support amateur athletic activities involving the United States and foreign nations;
- (8) to ~~support and assist national governing bodies in the development of a pipeline for future amateur athletes for~~ participation in ~~future international~~ amateur athletic ~~competition;~~
- (9) to provide swift resolution of conflicts and disputes involving amateur athletes ~~and~~ national governing bodies, ~~and protect the opportunity of any amateur athlete, coach, trainer, manager, administrator, or official to participate in amateur athletic competition;~~
- (10) to foster the development of ~~and access to~~ amateur athletic facilities, ~~either owned and managed by the corporation or owned and managed by others that meet certification requirements of the corporation,~~ for use by amateur athletes;
- (11) to provide and coordinate technical information on physical training, equipment design,

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(2) -to

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coaching, and performance analysis;

(12) to encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety;

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(13) to encourage and provide assistance to amateur athletic activities for women;

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(14) to encourage and provide assistance to amateur athletic programs and competition for amateur athletes with disabilities, including, where feasible, the expansion of opportunities for meaningful participation by such amateur athletes in programs of athletic competition for able-bodied amateur athletes; and

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(15) to encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of those minorities in amateur athletic activities in which they are underrepresented.

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#### §220504. Membership

(a) ELIGIBILITY.—Eligibility for membership in the corporation is as provided in the constitution and bylaws of the corporation. Membership in the corporation shall be provided only to currently certified national governing bodies, and such membership can be revoked for failure to maintain certification requirements.

(b) REQUIRED PROVISIONS FOR REPRESENTATION.—In its constitution and bylaws, the corporation shall establish and maintain provisions with respect to its governance and the conduct of its affairs for reasonable representation of—

(1) amateur sports organizations certified as national governing bodies in accordance with section 220521 of this title, including through provisions which establish and maintain a National Governing Bodies' Council composed of representatives of the national governing bodies selected by their boards of directors or such other governing boards to ensure effective communication between the corporation and such national governing bodies;

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(2) amateur athletes who are actively engaged in amateur athletic competition or who have represented the United States in international amateur athletic competition within the preceding 10 years, including through provisions which—

(A) establish and maintain an Athletes' Advisory Council composed of, and elected by, such amateur athletes to ensure communication between the corporation and such amateur athletes; and

(B) ensure that the membership and voting power held by such amateur athletes is not less than 20 percent of the membership and voting power held in the board of directors of the corporation and in the committees and entities of the corporation; and

(3) individuals not affiliated or associated with any amateur sports organization who, in the corporation's judgment, represent the interests of the American public in the activities of the corporation.

Deleted: (3) -amateur sports organizations that conduct a national program or regular national amateur athletic competition in 2 or more sports that are included on the program of the Olympic Games, the Paralympic Games, or the Pan-American Games on a level of proficiency appropriate for the selection of amateur athletes to represent the United States in international amateur athletic competition; and¶

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(c) CERTIFICATION REQUIREMENTS.—The corporation shall list in its bylaws all generally applicable certification requirements for eligibility for membership in the corporation. Sport-specific certification requirements need not be stated in the corporation's bylaws.

**§220505. Powers**

(a) CONSTITUTION AND BYLAWS.—The corporation shall adopt a constitution and bylaws. The corporation may amend its constitution only if the corporation—

(1) publishes, in its principal publication, a notice of the proposed amendment, including—

(A) the substantive terms of the amendment;

(B) the time and place of the corporation's regular meeting at which adoption of the amendment is to be decided; and

(C) a provision informing interested persons that they may submit materials as authorized in clause (2) of this subsection; and

(2) gives all interested persons an opportunity to submit written comments and information for at least 60 days after publication of notice of the proposed amendment and before adoption of the amendment.

(b) GENERAL CORPORATE POWERS.—The corporation may—

(1) adopt and alter a corporate seal;

(2) establish and maintain offices to conduct the affairs of the corporation;

(3) make contracts;

(4) accept gifts, legacies, and devises in furtherance of its corporate purposes;

(5) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;

(6) borrow money, issue instruments of indebtedness, and secure its obligations by granting security interests in its property;

(7) publish a magazine, newspaper, and other publications consistent with its corporate purposes;

(8) approve and revoke membership in the corporation and recognize affiliates of the corporation;

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(9) sue and be sued, except that any civil action brought in a State court against the corporation and solely relating to the corporation's responsibilities under this Act shall be removed, at the request of the corporation, to the district court of the United States in the district in which the action was brought, and such district court shall have original jurisdiction over the action without regard to the amount in controversy or citizenship of the parties involved, and except that neither this paragraph nor any other provision of this chapter shall create a private right of action under this chapter; and

(10) do any other act necessary and proper to carry out the purposes of the corporation.

(c) POWERS RELATED TO AMATEUR ATHLETICS AND THE OLYMPIC GAMES.—The corporation may—

(1) serve as the overseeing and coordinating body for amateur athletic activity in the United States related to international amateur athletic competition and the preparation therefor;

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(2) represent the United States as its national Olympic committee in relations with the International Olympic Committee and the Pan-American Sports Organization and as its national Paralympic committee in relations with the International Paralympic Committee;

(3) organize, finance, and control the representation of the United States in the competitions and events of the Olympic Games, the Paralympic Games, and the Pan-American Games, and obtain, directly or by delegation to the appropriate member, amateur representation for those games;

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(4) certify eligible amateur sports organizations as national governing bodies for any sport that is included on the program of the Olympic Games, the Pan-American Games, or the Paralympic Games;

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(5) facilitate, through orderly and effective administrative procedures, the resolution of conflicts or disputes that involve any of its members and any amateur athlete, coach, trainer, manager, administrator, official, national governing body, or amateur sports organization and that arise in connection with their eligibility for and participation in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition, the Pan-American world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation; and

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(6) provide financial assistance to any organization or association, except a corporation organized for profit, in furtherance of the purposes of the corporation.

#### §220506. Exclusive right to name, seals, emblems, and badges

(a) EXCLUSIVE RIGHT OF CORPORATION.—Except as provided in subsection (d) of this section, the corporation has the exclusive right to use—

(1) the name "United States Olympic & Paralympic Committee";

(2) the symbol of the International Olympic Committee, consisting of 5 interlocking rings, the symbol of the International Paralympic Committee, consisting of 3 TaiGeuks, or the symbol of the Pan-American Sports Organization, consisting of a torch surrounded by concentric rings;

(3) the emblem of the corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with 5 interlocking rings displayed on the chief; and

(4) the words "Olympic", "Olympiad", "Citius Altius Fortius", "Paralympic", "Paralympiad", "Pan-American", "America Espirito Sport Fraternite", or any combination of those words.

(b) CONTRIBUTORS AND SUPPLIERS.—The corporation may authorize contributors and suppliers of goods or services to use the trade name of the corporation or any trademark, symbol, insignia, or emblem of the International Olympic Committee, International Paralympic Committee, the Pan-American Sports Organization, or of the corporation to advertise that the contributions, goods, or services were donated or supplied to, or approved, selected, or used by, the corporation, the United States Olympic team, the Paralympic team, the Pan-American team, or team members.

(c) CIVIL ACTION FOR UNAUTHORIZED USE.—Except as provided in subsection (d) of this section, the corporation may file a civil action against a person for the remedies provided in the Act of July 5, 1946 (15 U.S.C. 1051 et seq.) (popularly known as the Trademark Act of 1946) if the person, without the consent of the corporation, uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

(1) the symbol described in subsection (a)(2) of this section;

(2) the emblem described in subsection (a)(3) of this section;

(3) the words described in subsection (a)(4) of this section, or any combination or simulation of those words tending to cause confusion or mistake, to deceive, or to falsely suggest a connection with the corporation or any Olympic, Paralympic, or Pan-American Games activity; or

(4) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee, the International Paralympic Committee, the Pan-American Sports Organization, or the corporation.

(d) PRE-EXISTING AND GEOGRAPHIC REFERENCE RIGHTS.—

(1) A person who actually used the emblem described in subsection (a)(3) of this section, or the words or any combination of the words described in subsection (a)(4) of this section, for any lawful purpose before September 21, 1950, is not prohibited by this section from continuing the lawful use for the same purpose and for the same goods or services.

(2) A person who actually used, or whose assignor actually used, the words or any combination of the words described in subsection (a)(4) of this section, or a trademark, trade name, sign, symbol, or insignia described in subsection (c)(4) of this section, for any lawful purpose before September 21, 1950, is not prohibited by this section from continuing the lawful use for the same purpose and for the same goods or services.

(3) Use of the word "Olympic" to identify a business or goods or services is permitted by this section where—

(A) such use is not combined with any of the intellectual properties referenced in subsections (a) or (c) of this section;

(B) it is evident from the circumstances that such use of the word "Olympic" refers to the naturally occurring mountains or geographical region of the same name that were named prior to February 6, 1998, and not to the corporation or any Olympic activity; and

(C) such business, goods, or services are operated, sold, and marketed in the State of Washington west of the Cascade Mountain range and operations, sales, and marketing outside of this area are not substantial.

**§220507. Restrictions**

(a) PROFIT AND STOCK.—The corporation may not engage in business for profit or issue stock.

(b) POLITICAL ACTIVITIES.—The corporation shall be nonpolitical and may not promote the candidacy of an individual seeking public office.

**§220508. Headquarters, principal office, and meetings**

The corporation shall maintain its principal office and national headquarters in a place in the United States decided by the corporation. The corporation may hold its annual and special meetings in the places decided by the corporation.

**§220509. Resolution of disputes**

(a) GENERAL.—The corporation shall establish and maintain provisions in its constitution and bylaws for the swift and equitable resolution of disputes involving any of its members and relating to the opportunity of an amateur athlete, coach, trainer, manager, administrator, or official to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition, or other protected competition as defined in the constitution and bylaws of the corporation. In any lawsuit relating to the resolution of a dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, or the Pan-American Games, a court shall not grant injunctive relief against the corporation within 21 days before the beginning of such games if the corporation, after consultation with the chair of the Athletes' Advisory Council, has provided a sworn statement in writing executed by an officer of the corporation to such court that its constitution and bylaws cannot provide for the resolution of such dispute prior to the beginning of such games.

(b) OMBUDSMAN.—

(1) The corporation shall provide salary, benefits, and administrative expenses for an ombudsman for athletes, who shall—

(A) provide independent advice to athletes at no cost about the applicable provisions of this chapter and the constitution and bylaws of the corporation, national governing bodies, international sports federations, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization, and with respect to the

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resolution of any dispute involving the opportunity of an amateur athlete to participate in the Olympic Games, the Paralympic Games, the Pan-American Games, world championship competition or other protected competition as defined in the constitution and bylaws of the corporation;

- (B) assist in mediating any such disputes; and
- (C) report to the Athletes' Advisory Council on a regular basis.

(2) (A) The procedure for hiring the ombudsman for athletes shall be as mutually agreed between the corporation and the Athletes' Advisory Council.

(B) The corporation may terminate the employment of an individual serving as ombudsman for athletes only if—

- (i) the termination is carried out in accordance with the applicable policies and procedures of the corporation;
- (ii) the termination is initially recommended to the corporation's executive committee by either the corporation's executive director or by the Athletes' Advisory Council; and
- (iii) the corporation's executive committee fully considers the advice and counsel of the Athletes' Advisory Council prior to deciding whether or not to terminate the employment of such individual.

(3) Unless otherwise specifically required by current federal law, all communication by and between the ombudsman and any and all athletes shall be considered privileged and confidential communication that cannot be discovered without a court order from a court with proper jurisdiction specifically requiring the disclosure of such communication.

#### §220510. Service of process

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall have a designated agent in the State of Colorado to receive service of process for the corporation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the corporation.

#### §220511. Report

(a) SUBMISSION TO PRESIDENT AND CONGRESS.—The corporation shall, on or before the first day of June each year and every year thereafter, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding year, including—

(1) financial statements of the corporation for the year showing, among other things, any and all direct payments to each national governing body and support provided directly and indirectly to amateur athletes;

(2) a report from the corporations' Compliance Committee highlighting the areas where the

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(i) ~~The Athletes' Advisory Council shall provide~~

**Deleted:** corporation's executive director with the name of one qualified person to serve as ombudsman for athletes. ¶

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(ii) ~~The corporation's executive director shall immediately transmit the name of such person to the corporation's executive committee.~~ ¶

¶

(iii) ~~The corporation's executive committee shall hire or not hire such person after fully considering the advice~~

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(2) ~~a comprehensive description of the activities and accomplishments of the corporation during such 4-year period;~~ ¶

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corporation has and has not met compliance standards during the previous year.

(3) a report from the corporations' Compliance Committee highlighting the compliance, or lack thereof, of each of the corporations' members during the previous year, including improvement plans or alternative plans.

(4) the most recent annual, third-party culture assessment of the corporation quantifying, in a meaningful way, the improvements, or the lack thereof, to the corporation's protection of and service to and on behalf of amateur athletes and its members.

(5) data concerning the participation of women, disabled individuals, and racial and ethnic minorities in the amateur athletic activities during the previous year; and

(6) a description of the steps taken to encourage the participation of women, disabled individuals, and racial minorities in amateur athletic activities.

(7) a report from the corporations' Chief Compliance Officer providing summaries of the number of whistleblower claims received in the previous year, the average times it took to investigate and resolve such claims, and details about the nature of the whistleblower claims.

(b) AVAILABILITY TO PUBLIC.—The corporation shall make the report available to the public via an easily accessible online format and location.

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**§220512 Complete teams**

In obtaining representation for the United States in each competition and event of the Olympic Games, Paralympic Games, and Pan-American Games, the corporation, either directly or by delegation to the appropriate national governing body, may select, but is not obligated to select (even if not selecting will result in an incomplete team for an event), athletes who have not met the eligibility standard of the members or the corporation, when the number of athletes who have met the eligibility standards of such entities is insufficient to fill the roster for an event.

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SUBCHAPTER II—NATIONAL GOVERNING BODIES

**§220521. Certification of amateur sports organizations as national governing bodies**

(a) GENERAL AUTHORITY.—For any sport which is included on the program of the Olympic Games, the Paralympic Games, or the Pan-American Games, the corporation is authorized to certify as a national governing body (in the case of a sport on the program of the Olympic Games or Paralympic Games or Pan American Games) an amateur sports organization which files an application and is eligible for such certification in accordance with the provisions of subsection (a) section 220522. The corporation may certify only one national governing body for each sport for which an application is made and approved.

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(b) PUBLIC HEARING.—Before certifying an organization as a national governing body, the corporation shall hold at least 2 public hearings on the application. The corporation shall publish notice of the time, place, and nature of the hearings. Publication shall be made in a regular issue of the corporation's principal publication

at least 30 days, but not more than 60 days, before the date of the hearings. The corporation shall send written notice, which shall include a copy of the application, at least 30 days prior to the date of any such public hearing to all amateur sports organizations known to the corporation in that sport.

(c) RECOMMENDATION TO INTERNATIONAL SPORTS FEDERATION.—Within 61 days after certifying an organization as a national governing body, the corporation shall recommend and support in any appropriate manner the national governing body to the appropriate international sports federation as the representative of the United States for that sport.

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(d) REVIEW OF CERTIFICATION.—The corporation may review all matters related to the continued certification of an organization as a national governing body and may take action it considers appropriate, including placing conditions on the continued certification and imposing penalties for the failure of a member to maintain proper certification standards.

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#### §220522. Eligibility requirements

(a) GENERAL.—An amateur sports organization is eligible to be certified, or to continue to be certified, as a member only if, at a minimum, it—

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(1) is incorporated under the laws of a State of the United States or the District of Columbia as a not-for-profit corporation having as its purpose the advancement of amateur athletic competition;

(2) has the managerial and financial capability to plan and execute its obligations as a member, including the ability to provide and enforce required athlete protection policies and procedures;

(3) submits—

(A) an application, in the form required by the corporation, for certification as a national governing body;

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(B) a copy of its corporate charter and bylaws; and

(C) any additional information considered necessary or appropriate by the corporation;

(4) agrees to submit to binding arbitration in any controversy involving—

(A) its certification as a national governing body, as provided for in section 220529 of this title, upon demand of the corporation; and

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(B) the opportunity of any amateur athlete, coach, trainer, manager, administrator or official to participate in amateur athletic competition, upon demand of the corporation or any aggrieved amateur athlete, coach, trainer, manager, administrator or official, conducted in accordance with the commercial rules of the currently appointed arbitration body, as modified and provided for in the corporation's constitution and bylaws, except that if the Athletes' Advisory Council and National Governing Bodies' Council do not concur on any modifications to such rules, and if the corporation's executive committee is not able to facilitate such concurrence, the commercial rules of the currently appointed arbitration body shall apply

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(B) \_\_\_\_\_ ensures that the representation reflects the nature, scope, quality, and strength of the programs and competitions of the amateur sports organization in relation to all other programs and competitions in the sport in the United States;

(12) \_\_\_\_\_ demonstrates that none of its officers are also officers of any other amateur sports organization certified as a national governing body;

(13) \_\_\_\_\_ provides procedures for the prompt and equitable resolution of grievances of its members;

(14) \_\_\_\_\_ does not have eligibility criteria related to amateur status or to participation in the Olympic Games, the Paralympic Games, or the Pan-American Games that are more restrictive than those of the appropriate international sports federation; and

(15) \_\_\_\_\_ demonstrates, if the organization is seeking to be certified as a national governing body, that it is prepared to meet the obligations imposed on a national governing body under sections 220524 and 220525 of this title.

(16) \_\_\_\_\_ demonstrates compliance with the certification requirements in the corporation's bylaws and applicable sport-specific certification requirements, if any.

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**Deleted:** (b) ~~RECOGNITION OF PARALYMPIC SPORTS ORGANIZATIONS.—~~For any sport which is included on the program of the Paralympic Games, the corporation is authorized to designate, where feasible and when such designation would serve the best interest of the sport, and with the approval of the affected national governing body, a national governing body recognized under subsection (a) to govern such sport. Where such designation is not feasible or would not serve the best interest of the sport, the corporation is authorized to recognize another amateur sports organization as a paralympic sports organization to govern such sport, except that, notwithstanding the other requirements of this chapter, any such paralympic sports organization— ¶  
¶  
(1) ~~shall~~ comply only with those requirements, perform those duties, and have those powers that the corporation, in its sole discretion, determines are appropriate to meet the objects and purposes of this chapter; and ¶  
¶  
(2) ~~may~~, with the approval of the corporation, govern more than one sport included on the program of the Paralympic Games. ...

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#### §220523. Authority of national governing bodies

(a) **AUTHORITY.**—For the sport that it governs, a national governing body may, subject to the oversight of the corporation and ongoing compliance with certification requirements imposed by the corporation—

(1) \_\_\_\_\_ represent the United States in the appropriate international sports federation;

(2) \_\_\_\_\_ establish national goals and encourage the attainment of those goals;

(3) \_\_\_\_\_ serve as the coordinating body for amateur athletic activity in the United States;

(4) \_\_\_\_\_ exercise jurisdiction over international amateur athletic activities and sanction international amateur athletic competition held in the United States and sanction the sponsorship of international amateur athletic competition held outside the United States;

(5) \_\_\_\_\_ conduct amateur athletic competition, including national championships, and international amateur athletic competition in the United States, and establish procedures for determining eligibility standards for participation in competition, except for amateur athletic competition specified in section 220526 of this title;

(6) \_\_\_\_\_ recommend to the corporation individuals and teams to represent the United States in the Olympic Games, the Paralympic Games, and the Pan-American Games, and

(7) \_\_\_\_\_ designate individuals and teams to represent the United States in international amateur athletic competition (other than the Olympic Games, the Paralympic Games, and the Pan-American

Games) and certify, in accordance with applicable international rules, the amateur eligibility of those individuals and teams.

(b) REPLACEMENT OF NATIONAL GOVERNING BODY PURSUANT TO ARBITRATION.—A national governing body may not exercise any authority under subsection (a) of this section for a particular sport after another amateur sports organization has been declared (in accordance with binding arbitration proceedings prescribed by the organic documents of the corporation) entitled and certified by the corporation to replace that national governing body as the member of the corporation for that sport. The corporation may, until such time as a replacement organization is declared and certified, serve as the national governing body for a sport.

#### **§220524 General duties of national governing bodies**

For the sport that it governs, a national governing body shall—

- (1) develop interest and participation throughout the United States and be responsible to the persons and amateur sports organizations it represents;
- (2) minimize, through coordination with other amateur sports organizations, conflicts in the scheduling of all practices and competitions;
- (3) keep amateur athletes informed of policy matters and reasonably reflect the views of the athletes in its policy decisions;
- (4) disseminate and distribute to amateur athletes, coaches, trainers, managers, administrators, and officials in a timely manner the applicable rules and any changes to such rules of the national governing body, the corporation, the appropriate international sports federation, the International Olympic Committee, the International Paralympic Committee, and the Pan-American Sports Organization;
- (5) allow an amateur athlete to compete in any international amateur athletic competition conducted by any amateur sports organization or person, unless the national governing body establishes that its denial is based on evidence that the organization or person conducting the competition does not meet the requirements stated in section 220525 of this title;
- (6) provide equitable support and encouragement for participation by women where separate programs for male and female athletes are conducted on a national basis;
- (7) encourage and support amateur athletic sports programs for individuals with disabilities and the participation of individuals with disabilities in amateur athletic activity, including, where feasible, the expansion of opportunities for meaningful participation by individuals with disabilities in programs of athletic competition for able-bodied individuals;
- (8) provide and coordinate technical information on physical training, equipment design, coaching, and performance analysis; and
- (9) encourage and support research, development, and dissemination of information in the areas of sports medicine and sports safety.

**§220525. Granting sanctions for amateur athletic competitions**

(a) PROMPT REVIEW AND DECISION.—For the sport that it governs, a national governing body promptly shall—

- (1) review a request by an amateur sports organization or person for a sanction to hold an international amateur athletic competition in the United States or to sponsor United States amateur athletes to compete in international amateur athletic competition outside the United States; and
- 2) grant the sanction if—
  - (A) the national governing body does not decide by clear and convincing evidence that holding or sponsoring an international amateur athletic competition would be detrimental to the best interest of the sport [or amateur athletes](#); and
  - (B) the requirements of subsection (b) of this section are met.

(b) REQUIREMENTS.—An amateur sports organization or person may be granted a sanction under this section only if the organization or person meets the following requirements—

- (1) The organization or person must pay the national governing body any required sanctioning fee, if the fee is reasonable and nondiscriminatory.
- (2) For a sanction to hold an international amateur athletic competition in the United States, the organization or person must—
  - (A) submit to the national governing body an audited or notarized financial report of similar events, if any, conducted by the organization or person; and
  - (B) demonstrate that the requirements of paragraph (4) of this subsection have been met.
- (3) For a sanction to sponsor United States amateur athletes to compete in international amateur athletic competition outside the United States, the organization or person must—
  - (A) submit a report of the most recent trip to a foreign country, if any, that the organization or person sponsored for the purpose of having United States amateur athletes compete in international amateur athletic competition; and
  - (B) submit a letter from the appropriate entity that will hold the international amateur athletic competition certifying that the requirements of paragraph (4) of this subsection have been met.
- (4) The requirements referred to in paragraphs (2) and (3) of this subsection are that—
  - (A) appropriate measures have been taken to protect the amateur status of athletes

who will take part in the competition and to protect their eligibility to compete in amateur athletic competition;

(B) appropriate provision has been made for validation of any records established during the competition;

(C) due regard has been given to any international amateur athletic requirements specifically applicable to the competition;

(D) the competition will be conducted by qualified officials;

(E) proper medical supervision will be provided for athletes who will participate in the competition; and

(F) proper safety precautions have been taken to protect the personal welfare of the athletics and spectators at the competition.

#### §220526. Restricted amateur athletic competitions

(a) EXCLUSIVE JURISDICTION.—~~An~~ amateur sports organization that conducts amateur athletic competition shall have exclusive jurisdiction over that competition if participation is restricted to a specific class of amateur athletes, such as high school students, college students, members of the Armed Forces, or similar groups or categories.

(b) SANCTIONS FOR INTERNATIONAL COMPETITION.—An amateur sports organization under subsection (a) of this section shall obtain a sanction from the appropriate national governing body if the organization wishes to—

- (1) conduct international amateur athletic competition in the United States; or
- (2) sponsor international amateur athletic competition to be held outside the United States.

#### §220527. Complaints against national governing bodies

(a) GENERAL.—

(1) An amateur sports organization or person that belongs to or is eligible to belong to a national governing body may seek to compel the national governing body to comply with sections 220522, 220524, and 220525 of this title by filing a written complaint with the corporation. A copy of the complaint shall be served on the national governing body.

(2) The corporation shall establish procedures for the filing and disposition of complaints under this section.

(b) ~~HEARINGS.—The~~ corporation shall hold a hearing, within 90 days after the complaint is filed, to receive testimony to decide whether the national governing body is complying with sections 220522, 220524, and 220525 of this title.

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¶ (1) ~~An~~ organization or person may file a complaint under subsection (a) of this section (a) only after exhausting all available remedies within the national governing body for correcting deficiencies, unless it can be shown by clear and convincing evidence that those remedies would have resulted in unnecessary delay. ¶

¶ (2) ~~Within~~ 30 days after a complaint is filed, the

**Deleted:** shall decide whether the organization or person has exhausted all available remedies as required by paragraph (1) of this subsection. If the corporation determines that the remedies have not been exhausted, it may direct that the remedies be pursued before the corporation considers the complaint further. ¶

¶ HEARINGS.—If the corporation decides that all available remedies have been exhausted as required by subsection (b)(1) of this section, it

(d) DISPOSITION OF COMPLAINT.—

(1) If the corporation decides, as a result of the hearing, that the national governing body is complying with sections 220522, 220524, and 220525 of this title, it shall so notify the complainant and the national governing body.

(2) If the corporation decides, as a result of the hearing, that the national governing body is not complying with sections 220522, 220524, and 220525 of this title, it shall—

(A) place the national governing body on probation for a specified period of time, not to exceed 180 days, which the corporation considers necessary to enable the national governing body to comply with those sections; or

(B) revoke the certification of the national governing body.

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(3) If the corporation places a national governing body on probation under paragraph (2) of this subsection, it may extend the probationary period if the national governing body has proven by clear and convincing evidence that, through no fault of its own, it needs additional time to comply with sections 220522, 220524, and 220525 of this title. If, at the end of the period allowed by the corporation, the national governing body has not complied with those sections, the corporation shall revoke the certification of the national governing body.

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**§220528. Applications to replace an incumbent national governing body**

(a) GENERAL.—An amateur sports organization may seek to replace an incumbent as the national governing body for a particular sport by filing a written application for certification with the corporation.

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(b) ESTABLISHMENT OF PROCEDURES.—The corporation shall establish procedures for the filing and disposition of applications under this section. If 2 or more organizations file applications for the same sport, the applications shall be considered in a single proceeding.

(c) FILING PROCEDURES.—

(1) An application under this section must be filed within one year after the final day of-

(A) any Olympic Games, for a sport in which competition is held in the Olympic Games or the Paralympic Games, or in both the Olympic and Pan-American Games; or

(B) any Pan-American Games, for a sport in which competition is held in the Pan-American Games but not in the Olympic Games.

(2) The application shall be filed with the corporation by certified mail, and a copy of the application shall be served on the national governing body and with any other organization that has filed an application. The corporation shall inform the applicant that its application has been received.

(d) HEARINGS.—Within 180 days after receipt of an application filed under this section, the corporation shall conduct a formal hearing open to the public to determine the merits of the application. The



corporation shall publish notice of the time and place of the hearing in a regular issue of its principal publication at least 30 days, but not more than 60 days, before the date of the hearing. The corporation also shall send written notice, including a copy of the application, at least 30 days prior to the date of the hearing to all amateur sports organizations known to the corporation in that sport. In the hearing, the applicant and the national governing body shall be given a reasonable opportunity to present evidence supporting their positions.

(e) STANDARDS FOR GRANTING APPLICATIONS.—In the hearing, the applicant must establish by a preponderance of the evidence that—

(1) it meets the criteria for certification as a national governing body under section 220522 of this title; and

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(2) (A) the national governing body does not meet the criteria of section 220522, 220524, or 220525 of this title; or

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(B) The applicant more adequately meets the criteria of section 220522 of this title, is capable of more adequately meeting the criteria of sections 220524 and 220525 of this title, and provides or is capable of providing a more effective national program of competition than the national governing body in the sport for which it seeks certification.

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(f) DISPOSITIONS OF APPLICATIONS.—Within 30 days after the close of the hearing required by this section, the corporation shall—

(1) uphold the right of the national governing body to continue as the national governing body for its sport;

(2) revoke the certification of the national governing body and declare a vacancy in the national governing body for that sport;

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(3) revoke the certification of the national governing body and certify the applicant as the national governing body; or

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(4) place the national governing body on probation for a period not exceeding 180 days, pending the compliance of the national governing body, if the national governing body would have retained certification except for a minor deficiency in one of the requirements of section 220522, 220524, or 220525 of this title and notify such national governing body of such probation and of the actions needed to comply with such requirements.

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(g) REVOCATION OF CERTIFICATION AFTER PROBATION.—If the national governing body does not comply with sections 220522, 220524, and 220525 of this title within the probationary period prescribed under subsection (f)(4) of this section, the corporation shall revoke the certification of the national governing body and either—

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(1) certify the applicant as the national governing body; or

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(2) declare a vacancy in the national governing body for that sport.

**§220529. Arbitration of corporation determinations**

(a) RIGHT TO REVIEW.—A party aggrieved by a determination of the corporation under section 220527 or 220528 of this title may obtain review by any regional office of the then current arbitration body.

**Deleted:** American Arbitration Association.

(b) PROCEDURE.—

(1) A demand for arbitration must be submitted within 30 days after the determination of the corporation.

(2) On receipt of a demand for arbitration, the arbitration body shall serve notice on the parties to the arbitration and on the corporation, and shall immediately proceed with arbitration according to the commercial rules of the arbitration body in effect at the time the demand is filed, except that—

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(A) the arbitration panel shall consist of at least 3 arbitrators, unless the parties to the proceeding agree to a lesser number;

(B) the arbitration hearing shall take place at a site selected by the arbitration body, unless the parties to the proceeding agree to the use of another site; and

**Deleted:** Association

(C) the arbitration hearing shall be open to the public.

(3) A decision by the arbitrators shall be by majority vote unless the concurrence of all arbitrators is expressly required by the contesting parties.

(4) Each party may be represented by counsel or by any other authorized representative at the arbitration proceeding.

(5) The parties may offer any evidence they desire and shall produce any additional evidence the arbitrators believe is necessary to an understanding and determination of the dispute. The arbitrators shall be the sole judges of the relevancy and materiality of the evidence offered. Conformity to legal rules of evidence is not necessary.

(c) SETTLEMENT.—The arbitrators may settle a dispute arising under this chapter before making a final award, if agreed to by the parties and achieved in a manner not inconsistent with the constitution and bylaws of the corporation.

(d) BINDING NATURE OF DECISION.—Final decision of the arbitrators is binding on the parties if the award is not inconsistent with the constitution and bylaws of the corporation.

(e) REOPENING HEARINGS.—

(1) At any time before a final decision is made, the hearings may be reopened by the arbitrators on their own motion or on the motion of a party.

(2) If the reopening is based on the motion of a party, and if the reopening would result in the arbitrators' decision being delayed beyond the specific period agreed to at the beginning of the

arbitration proceedings, all parties to the decision must agree to reopen the hearings.











