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June 29, 2021

Congressional Committees

### **Amateur Athlete Safety: Certification Related to the Independence of the U.S. Center for SafeSport for Fiscal Year 2020**

The U.S. Center for SafeSport (the Center), established in March 2017, is an independent nonprofit organization that plays a key role in ensuring the safety of amateur athletes, many of whom are minors, who participate in Olympic, Paralympic, Pan-American, and Parapan American events and training.<sup>1</sup> The Center has jurisdiction over the U.S. Olympic and Paralympic Committee (the Corporation) and national governing bodies (amateur sports organizations recognized or certified by the Corporation for a sport included in the Olympic, Paralympic, Pan-American, or Parapan American Games), with regard to safeguarding amateur athletes against abuse in sports.<sup>2</sup> The Center is required to develop training, oversight practices, policies, and procedures to prevent abuse of amateur athletes, among other activities. Also, the Center investigates and resolves allegations of sexual misconduct by coaches, trainers, managers, peers, and others in violation of the Center's policies and procedures. In addition, the Center may, at its discretion, investigate and resolve allegations of other policy violations, including non-sexual child abuse and emotional and physical misconduct.<sup>3</sup>

The Empowering Olympic, Paralympic, and Amateur Athletes Act of 2020 (EOPAAA) made several amendments to the Ted Stevens Act.<sup>4</sup> Among other things, it prohibits former employees or board members of the Corporation or a national governing body from working or

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<sup>1</sup>Under the Ted Stevens Olympic and Amateur Sports Act (Ted Stevens Act), an 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. 36 U.S.C. § 220501. An amateur athlete is an athlete who meets the eligibility standards established by the national governing body or Paralympic sports organization for the sport in which the athlete competes. The U.S. Olympic and Paralympic Committee (Corporation) recognizes or certifies one national governing body per sport (e.g., USA Gymnastics, USA Swimming) and there are currently 50 national governing bodies and five Paralympic sports organizations. In this report, we use the term national governing body to include the Corporation's recognized or certified national governing bodies and Paralympic sports organizations as of March 10, 2021, for a total of 55 organizations.

<sup>2</sup>See 36 U.S.C. §§ 220541-220543.

<sup>3</sup>For more information on the Center's response and resolution process for reports of abuse, see *GAO, Amateur Athletes: The U.S. Center for SafeSport's Response and Resolution Process for Reporting Abuse*, [GAO-21-128R](#) (Washington, D.C.: Dec. 18, 2020).

<sup>4</sup>Pub. L. No. 116-189, 134 Stat. 943. The EOPAAA was enacted on October 30, 2020.

volunteering at the Center for 2 years,<sup>5</sup> and prohibits the Corporation and the national governing bodies from interfering in or attempting to influence the outcome of an investigation.<sup>6</sup> It also provides that an executive or attorney for the Center shall be considered to have an inappropriate conflict of interest if the executive or attorney also represents the corporation or a national governing body.<sup>7</sup>

The EOPAAA included a provision for GAO to annually “make available to the public a certification relating to the Center’s independence from the Corporation,” including the following:<sup>8</sup>

- a finding of whether a violation of the prohibition on employment of former employees or board members of the Corporation has occurred during the year preceding the certification;
- a finding of whether an executive or attorney for the Center has had an inappropriate conflict of interest during that year; and
- a finding of whether the Corporation has interfered in, or attempted to influence the outcome of, an investigation by the Center.

In this report, we examine, during the period of January 1, 2020, through December 31, 2020: (1) whether former board members or employees of the Corporation observed the required 2-year “cooling-off period” before working or volunteering at the Center; (2) whether an executive or attorney for the Center had an inappropriate conflict of interest; and (3) whether the Corporation interfered in, or attempted to influence the outcome of, an investigation by the Center.

Our findings in this report are based on our review of information and documents that we obtained from the Center, the Corporation, and national governing bodies.<sup>9</sup> Specifically, to examine whether the cooling-off period was observed and whether inappropriate conflicts of interest occurred, we reviewed information provided by the Center about its employees and volunteers (including board members, executives, attorneys, contractors, and other staff) who

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<sup>5</sup>Section 8(a)(1)(E) of the EOPAAA (codified at 36 U.S.C. § 220541(f)(1)). Specifically, the EOPAAA provides that “[a] former employee or board member of the corporation or a national governing body shall not work or volunteer at the Center during the 2-year period beginning on the date on which the former employee or board member ceases employment with the corporation or national governing body.” For the purposes of this report, we refer to this as the 2-year cooling-off period.

<sup>6</sup>Section 8(a)(1)(E) of the EOPAAA (codified at 36 U.S.C. § 220541(f)(4)(A)).

<sup>7</sup>Section 8(a)(1)(E) of the EOPAAA (codified at 36 U.S.C. § 220541(f)(3)). However, an athlete serving on the board of directors of a national governing body who is not otherwise employed by the national governing body may volunteer at, or serve in an advisory capacity to, the Center.

<sup>8</sup>See section 8(a)(1)(E) of the EOPAAA (codified at 36 U.S.C. § 220541(j)).

<sup>9</sup>This report, covering fiscal year 2020, is based on the certification provisions of the EOPAAA described above and our review of the information and documentation described below. This report does not address the Center’s independence from the Corporation or national governing bodies in any other respects.

worked or volunteered for the Center at any point during its fiscal year 2020 (January 1, 2020, to December 31, 2020). We reviewed conflict of interest verification forms and associated supplemental statements that the Center requires of all its employees, board and committee members, contractors—including employees and agents of contractors, and subcontractors—volunteers, and interns.<sup>10</sup> The form requires disclosure of any current or past employment or association with the Corporation or a national governing body.

We also cross-checked the information provided by the Center to information we received from the Corporation and 47 of 55 national governing bodies about their employees and contact with the Center.<sup>11</sup> For example, we obtained from the Corporation and national governing bodies information about attorneys they employed, hired, or retained; the dates of representation; and a brief description of the type of matter each attorney or firm engaged in on behalf of the Corporation or national governing body. We also received information from the Corporation and national governing bodies about whether, to their knowledge, former employees, including board members, executives, attorneys, employees of contractors, and volunteers, subsequently became involved with the Center as employees, board members, volunteers, contractors, or outside counsel after leaving their organizations.

To examine whether the Corporation interfered in, or attempted to influence the outcome of, an investigation, we reviewed the Center's written responses to questions about how employees, board members, or other representatives of the Corporation or national governing bodies interacted with the Center during fiscal year 2020. We also reviewed responses the Corporation and 47 of 55 national governing bodies provided to questions concerning how, if at all, the Center communicated with them about investigations during fiscal year 2020.

We also reviewed various documents, such as the Center's employee handbook, Center bylaws, confidentiality policy, standard operating procedures, and the SafeSport Code, which establishes acceptable standards of conduct for all individuals who participate in U.S. Olympic and Paralympic events and training.<sup>12</sup>

Our certification pursuant to 36 U.S.C. § 220541(j) applies to the Corporation. However, we also included information about national governing bodies in our report, because the EOPAAA refers to national governing bodies as well as the Corporation in connection with the cooling-off period, the definition of an inappropriate conflict of interest, and the prohibition on interference with Center investigations.

We conducted this performance audit from December 2020 to June 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>10</sup>Employees and others provide the information included in the conflict of interest forms; the information is self-disclosed.

<sup>11</sup>We emailed questions to the chief executive officers or executive directors of the Corporation and 55 national governing bodies on April 19, 2021. As of June 1, 2021, we received responses from the Corporation and 47 national governing bodies. Eight national governing bodies did not respond to our questions.

<sup>12</sup>For future fiscal years, as circumstances may warrant, we may modify our scope and methodology.

## Certification

Based on the certification provisions of the EOPAAA and the methodology described above, we certify that the Center was independent from the Corporation during fiscal year 2020, as described in more detail below.

## Observance of 2-year Cooling-off Period for Former Employees and Board Members

We found no evidence that a former employee or board member of the Corporation worked for or volunteered with the Center in violation of the cooling-off period during fiscal year 2020. Specifically, when we compared information from the Center and its conflict of interest verification forms with information provided by the Corporation, we found that none of the Center's employees or other individuals who volunteered or worked with the Center during fiscal year 2020 were employees or board members of the Corporation between January 1, 2018, and December 31, 2020. See table 1 for the number of individuals who were employed, volunteered, or worked with the Center during fiscal year 2020.

**Table 1: Number of Individuals Who Were Employed, Volunteered, or Worked with the U.S. Center for SafeSport, Fiscal Year 2020 (January 1, 2020, to December 31, 2020)**

Employees	91
Board and committee members	14
Contractors	57
Outside counsel	13
Volunteers and interns	3

Source: GAO presentation of U.S. Center for SafeSport data. | GAO-21-586R

The Center takes multiple steps to ensure its employees and volunteers are in compliance with the 2-year cooling-off period. When the Center advertises job vacancies it includes language describing the 2-year cooling-off period so that job applicants are aware of it. Moreover, according to Center officials, the Center's Human Resources department conducts reviews of applicants' resumes and publicly available employment information to ensure all incoming employees are in compliance. In addition, the Center provides employees and volunteers its conflict of interest policy. According to the policy, a conflict of interest, or potential conflict of interest, exists when an individual's past, current, or anticipated future activities or interests, including financial interests, interfere with, influence, or have the potential to interfere with or influence the individual's responsibilities on behalf of the Center or undermine the interests of the Center. In addition, since July 2019 the Center has required its employees to complete a conflict of interest verification form at the start of employment or engagement with the Center and, according to Center officials, annually thereafter. The form requires disclosure of any current or past employment or association with the Corporation or a national governing body. The Center provided us with copies of conflict of interest verification forms for its employees and volunteers during fiscal year 2020.<sup>13</sup>

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<sup>13</sup>Our review of information from the Center and documentation from 47 responding national governing bodies, revealed one situation where for 3 months in fiscal year 2020 (August 2020–November 2020) an investigator affiliated with a Center contractor also served as a national governing body security advisor. The Center terminated its

## Executive or Attorney Conflicts of Interest

We found no evidence of an inappropriate conflict of interest, as defined by the EOPAAA, between the Center's executives or attorneys and the Corporation.<sup>14</sup> The Center employed 13 executives and attorneys, and retained 13 lawyers as outside counsel from various firms in that year. No Center executives or attorneys reported representing the Corporation during the relevant period. In addition, we cross-checked the names of every lawyer employed by or retained as outside counsel by the Corporation and did not find any that also represented the Center in fiscal year 2020. Similarly, with regard to the responding national governing bodies, we identified no inappropriate conflicts of interest for fiscal year 2020.

## Center Practices to Prevent Interference or Influence in Investigations

Our review of the Center's investigative process found no evidence of interference or influence by the Corporation. Center staff reported that they were not aware of any attempts by the Corporation to interfere in or influence the outcome of an investigation during fiscal year 2020.<sup>15</sup> According to Center staff, it expects employees and board members to report to their supervisor or the Center's legal department any attempts to interfere in or influence the outcome of an investigation and no employees or board members made such a report in fiscal year 2020. Similarly, with regard to the responding national governing bodies, we found no evidence of interference in, or attempts to influence the outcome of, a Center investigation during fiscal year 2020.

The Center has safeguards in place to prevent the Corporation and national governing bodies from interfering in or influencing the outcome of investigations. The SafeSport Code and the Center's standard operating procedures outline information that is shared with the Corporation and national governing bodies, including the following:

- When determining its jurisdiction over a case, the Center may request membership information and the names and contact information of the individuals involved.<sup>16</sup> Once

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relationship with that contractor in November 2020. Our certification related to the cooling-off period is limited to former employees or board members of the Corporation.

<sup>14</sup>Specifically, an executive or attorney for the Center shall be considered to have an inappropriate conflict of interest if the executive or attorney also represents the Corporation or a national governing body. Section 8(a)(1)(E) of the EOPAAA (codified at 36 U.S.C. § 220541(f)(3)).

<sup>15</sup>Under the EOPAAA, in the case of an attempt to interfere in, or influence the outcome of, an investigation, the Center is required to submit to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Energy and Commerce and Committee on the Judiciary a report describing the attempt, within 72 hours. Section 8(a)(1)(E) of the EOPAAA (codified at 36 U.S.C. § 220541(f)(4)(B)). According to Center staff, they have not submitted any reports to the congressional committees.

<sup>16</sup>Under the SafeSport Code, certain alleged violations fall under the Center's "exclusive jurisdiction" (including allegations of sexual misconduct and child sexual abuse, among others) and other alleged violations fall under its "discretionary jurisdiction" (including allegations of non-sexual child abuse and emotional and physical misconduct, among others). According to the Code, when allegations fall within the Center's exclusive jurisdiction, national governing bodies—while able to impose temporary measures or safety plans—may not investigate or resolve those allegations. When the allegations fall within the Center's discretionary jurisdiction, national governing bodies may

the Center determines it will exercise jurisdiction, it notifies the Corporation and affected national governing bodies of its decision.

- If the Center imposes temporary measures on an individual (such as restrictions on the individual's eligibility to participate in sport), the Center will notify the Corporation and the national governing body with jurisdiction over the individual, so that eligibility restrictions can be enforced.
- After the Center finishes its investigation, it will notify the Corporation and the national governing body about decisions and sanctions of individuals, as well as the outcome of arbitrations.

In addition, the Corporation and national governing bodies have access to a portal that shows open cases for their respective organizations, but this portal includes only limited information about the case, such as the respondent's name, case status (open/closed), and case stage.<sup>17</sup> The portal also lists all respondents that are currently under eligibility restrictions or sanctions by the Center so the Corporation and national governing bodies can enforce the restrictions. The portal does not show any information about claimants, witnesses, or investigative strategy.

The Corporation and responding national governing bodies provided information about their communications with the Center related to investigations; among the national governing bodies providing detailed information, their communications were consistent with the procedures outlined in the SafeSport Code and the Center's standard operating procedures.<sup>18</sup> The responding national governing bodies that provided detailed information about their experiences with investigations reported that their interactions with the Center were generally limited to (1) receiving notices from the Center about jurisdiction, temporary measures, or final resolution decisions; or (2) requests from the Center for information about claimants, respondents, or witnesses.<sup>19</sup>

The Center has taken additional steps to prevent the Corporation or national governing bodies from interfering in or influencing the outcome of investigations, including the following:

- According to Center staff, they have discussed with employees and board members the provisions of the new law, including the provision prohibiting the Corporation and national governing bodies from interfering in, or attempting to influence the outcome of, an investigation.

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investigate and resolve the matter, unless and until the Center expressly exercises jurisdiction over the particular allegations.

<sup>17</sup>A respondent is a participant of the Olympic and Paralympic community who is alleged to have violated the SafeSport Code.

<sup>18</sup>Twelve of 47 national governing bodies that responded to our inquiry did not provide sufficient information for us to categorize their communications with the Center as it relates to investigations. For example, some national governing bodies reported that they had not been contacted by the Center for the purposes of a Center investigation.

<sup>19</sup>According to the SafeSport Code, a claimant is a person who is alleged to have experienced conduct that constitutes a Code violation.

- In early November 2020, the Center corresponded with the Corporation and national governing bodies about the EOPAAA and key provisions of the law affecting the Center, including the interference provision.
- The Center updated the SafeSport Code to include language prohibiting Corporation or national governing body employees, board members, and legal counsel from serving as advisors to individuals participating in the Center's processes.

The Center reported that it is in the process of developing an Ethics and Compliance program, hiring its first outside Ethics and Compliance Officer, and implementing its first Ethics Code.

### **Third-Party Views**

We provided excerpts of this report to the Center for review and comment. The Center provided technical comments, which we incorporated as appropriate.

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If you and your staff have any questions, please contact Kathryn A. Larin at (202) 512-7215 or [larink@gao.gov](mailto:larink@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Major contributors to this report were Andrea Dawson (Assistant Director), Ramona L. Burton (Analyst-in-Charge), Sarah Cornetto, Sarah I. Mirza, Almeta Spencer, Jean McSween, and Adam Wendel.



Kathryn A. Larin, Director  
Education, Workforce, and Income Security Issues

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