

Questions Surrounding SafeSport

PART ONE OF TWO

By Jessica Choper and Armand Leone, Leone Equestrian Law

Since its inception in 2017, SafeSport has made headlines across the country — and not just in equestrian circles. The U.S. Center for SafeSport is an independent 501(c)(3) non-profit organization focused on ending all forms of physical, mental and sexual abuse in *all sports* governed by the U.S. Olympic and Paralympic committees.

The Center's mission is an important and positive one: to make athlete well-being the centerpiece of our nation's sports culture through abuse prevention, education and accountability, and to protect athletes from emotional, physical and sexual abuse.

Yet, many are quick to criticize SafeSport and its policies, often because of a misunderstanding as to how the organization and the procedures truly work.

With that in mind, we hope to provide clarifying answers to a few of the questions we have received or seen arise repeatedly.

When someone is issued a SafeSport ban for sexual abuse or misconduct, is that the first time that they are notified that they are even being investigated? Or do they receive advance notification?

It's unclear where the idea originated that a banned individual, legally referred to as the respondent, only finds out about their ban as it is publicly announced, but it seems to be a widespread misconception.

In fact, the legal and investigative process prior to issuing a ban from competition is a lengthy one, of which the respondent is not only made aware, but also is involved in.



When a claimant files a complaint through SafeSport, a confidential investigation begins. If SafeSport determines that the alleged misconduct is covered by the SafeSport Code and committed by a participant in an Olympic or Paralympic sport, then SafeSport has the jurisdiction to investigate and act on the complaint.

From there, the intake process begins, during which time preliminary information is gathered. At this time, the involved parties are contacted — including the respondent.

The respondent is given the opportunity to take accountability for the misconduct or to deny the allegations. If the respondent takes accountability for the misconduct, the matter is resolved by the Center through an informal resolution. Otherwise, the complaint moves either to administrative closure, if there is insufficient information to proceed, or to formal investigation and resolution.

When the Center initiates a formal investigation, it will issue a notice of allegations letter to the respondent alleged to have violated the code. This letter contains the information available to the Center, including a general description of the alleged misconduct, when the incident(s) allegedly occurred, and who is involved. The notice of allegations will also provide information about

the code, the right to have someone advise the respondent during the process, and that the respondent will be contacted by a SafeSport Investigator. The notice may be updated as more information and evidence become available to the Center. Sometimes the notice may come in a notice of allegations and temporary measures as necessary to prevent ongoing abuse, which means the Center is implementing corresponding temporary measures such as an immediate suspension.

During the investigation, a trained investigator conducts interviews and gathers all available information and evidence. The investigator's role is to determine, by a preponderance of the evidence (i.e., more likely than not), whether or not a respondent engaged in behaviors that violate the code. In doing so, an investigator may interview the respondent, claimant and any relevant witnesses. They may also gather additional relevant information, including physical and/or documentary evidence. The investigator then concludes the investigation by drafting an investigation report for review by the director of the U.S. Center for SafeSport.

The Center endeavors to resolve all matters efficiently and effectively. Many factors will affect the length of an investigation including, but not limited to, the availability and location of witnesses and evidence, the number of alleged incidents and the number of potential claimants. Some investigations take more than a year to complete.

Once the investigation is complete, the director of SafeSport reviews the investigative report and issues a notice of decision stating whether a violation of the SafeSport Code occurred and, if so, what is deemed to be the appropriate sanction. The claimant and respondent are provided with access to both the investigation report and the notice of decision. If the director finds that a violation occurred and issues a sanction, the respondent may contest



Armand Leone, Jr., MD, JD, MBA, and attorney Jessica Choper of Leone Equestrian Law provide legal services and consultation for equestrians, ranging from riders and trainers to owners and show managers in the FEI disciplines on a wide variety of issues. Learn more by visiting www.equestriancounsel.com.

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and going to get ice cream over the weekend.

If these expected behaviors suddenly were to stop, with no explanation – just stop, how would you feel? Moreover, if your friend just disappeared and didn't return for months, how would you respond? Would you be upset and depressed? Very likely.

What would it take to reestablish the relationship? Time and energy, proof of caring and reinforcing the qualities that established the positive connection.

As long as your horse is physically healthy and nothing else is causing the change in his personality, you can find your "old" boy again.

Return to your old routine with him.

Spend a little more time on each special behavior the two of you shared.

Try to spend relaxed riding time with him and not ask for any advanced work until you start to see his personality returning. You have to regain his trust. He has to feel that you won't disappear again.

Remember, a horse will forgive more quickly than he will forget.

With time and some extra effort on your part (and maybe a couple of big juicy carrots!), your boy will forgive you for leaving and your relationship will return to normal. In fact, it might even be stronger. **IS**

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the sanction and request arbitration through JAMS, a neutral third-party dispute resolution organization. The decision of the arbitrator after a full hearing is final and either upholds, modifies or dismisses the sanction.

It is worth noting that the respondent may be represented at all stages of the investigation by an attorney or advisor, and the respondent may choose to participate or not in the investigative proceedings. If the respondent decides not to participate, then the Center will resolve the matter without the benefit of the respondent's participation based on all the available information and evidence.

If someone is found guilty of sexual abuse and issued a ban by SafeSport, could they also face additional legal consequences?

A SafeSport proceeding is not a criminal prosecution where an individual can face a fine or imprisonment, and proof beyond a reasonable doubt is not required. The only sanction SafeSport can issue is a recommendation to the sport's governing organization to suspend or ban the respondent from participating in a sport covered under the code. However, the Center for SafeSport must report allegations involving child abuse to the relevant law enforcement agency. **IS**