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2/18/2020

USA Para Powerlifting Sexual Misconduct Policy

Version 2.2.18.2020



Where Paralympic Journeys Begin

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Purpose

To establish a policy related to USA Para Powerlifting (USAPP) at its designated High-Performance Management Organization (HPMO), Logan University (Logan) commitment to ensuring a safe environment for its athletes' and members' participation.

Policy

Physical, emotional, and sexual misconduct

USAPP prohibits the crimes of physical, emotional and sexual misconduct. Programs are in place at Logan such as mandatory diversity training and Title IX training to ensure all Logan community members are aware of our policy and trained as a measure of prevention. Designated Person's by Logan as it pertains to the university's responsibilities to the sport of Paralympic Powerlifting in the United States are required to undergo and maintain compliance with the US Center of SafeSport Code and Minor Athlete Abuse and Prevention Policies (<https://safesport.org/>) as well as [the United States Olympic and Paralympic Committee's \(USOPC\) Background check policy](#).

Logan will respond promptly and effectively to reports of sexual assault, domestic violence, dating violence and stalking. Appropriate actions will be taken to prevent, correct and to discipline behavior that violates this policy. If a member of our community is victim to any of these crimes, Logan will also work to support, remedy and connect the victim to community resources.

Definition

Harassment

A repeated pattern of physical and/or non-physical behaviors that

- are intended to cause fear, humiliation or annoyance,
- offend or degrade,
- create a hostile environment or
- reflect discriminatory bias to establish dominance, superiority or power over an individual athlete or group based on gender, race, ethnicity, culture, religion, sexual orientation, gender expression or mental or physical disability; or
- Any act or conduct described as harassment under federal or state law.

Specific definition of sexual harassment provided under sexual misconduct definitions.

Bullying

An intentional, persistent and repeated pattern of committing or willfully tolerating physical and non-physical behaviors that are intended, or have the reasonable potential, to cause fear, humiliation or physical harm in an attempt to socially exclude, diminish or isolate the targeted athlete(s), as a condition of membership; or

Any act or conduct described as bullying under federal or state law.

Hazing

Coercing, requiring, forcing or willfully tolerating any humiliating, unwelcome or dangerous activity that serves as a condition for (a) joining a group or (b) being socially accepted by a group's members; or

Any act or conduct described as hazing under federal or state law.



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Emotional misconduct

A pattern of deliberate, non-contact behavior that has the potential to cause emotional or psychological harm to an athlete. Non-contact behaviors include (a) verbal acts (b) physical acts (c) acts that deny attention or support.

Any act or conduct as emotional abuse or misconduct under federal or state law (e.g., child abuse, child neglect).

Physical misconduct

Contact or non-contact that results in, or reasonably threatens to, cause physical harm to an athlete or other sports participants; or

Any act or conduct described as physical abuse or misconduct under federal or state law (e.g., child abuse, child neglect, assault).

Sexual misconduct

Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim

- i. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- ii. For the purposes of this definition
 - a. Dating Violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse
 - b. Dating violence does not include acts covered under the definition of domestic violence

Domestic Violence

A felony or misdemeanor crime of violence committed

- i. By a current or former spouse or intimate partner of the victim
- ii. By a person with whom the victim shares a child in common
- iii. By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner
- iv. By a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- v. By any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred

Sexual Assault

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting (UCR) program. Per the National Incident-Based Reporting System User Manual from the FBI UCR Program, A sex offense is *"any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent"*



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- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.
- Fondling: The touching of the private parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- Incest: Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law
- Statutory Rape: Sexual intercourse with a person who is under the statutory age of consent

Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to

- i. Fear for the person's safety or the safety of others or
- ii. Suffer substantial emotional distress. For the purposes of this definition-
 - a. Courses of conduct means two or more acts, including but not limited to acts which stalker direct, indirectly, or through third parties by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.
 - b. Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.
 - c. Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

Consent

Is defined as positive, unambiguous, and voluntary agreement to engage in specific sexual activity throughout a sexual encounter. Consent cannot be inferred from the absence of a "no;" a clear "yes," verbal or otherwise, is necessary. Consent to some sexual acts does not constitute consent to others, nor does past consent to a given act constitute present or future consent. Consent must be ongoing throughout a sexual encounter and can be revoked at any time.

Consent cannot be obtained by threat, coercion, or force. Agreement under such circumstances does not constitute consent.

Consent cannot be obtained from someone who is asleep or otherwise mentally or physically incapacitated, whether due to alcohol, drugs, or some other condition. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity. Engaging in sexual activity with a person whom you know, or reasonably should know, to be incapacitated constitutes sexual misconduct.

Note: An imbalance of power is always assumed between a coach and an athlete

Additional details regarding each type of misconduct described above can be found in the SafeSport Code for the U.S. Olympic and Paralympic Movement (www.safesport.org)



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Additional prohibited misconduct

Additionally, prohibited misconduct shall include, without limitation, the following:

- Romantic or sexual relationships, which began during the sports relationship, between athletes and or other participants and those individuals
 - with direct supervisory or evaluative control, or
 - are in a position of power and trust over the athlete or other participant.
- Except in circumstances where no imbalance of power exists, coaches have this direct supervisory or evaluative control and are in a position of power and trust over those athletes or participants they coach.

The prohibition on romantic or sexual relationships does not include those relationships where it can be demonstrated there is no imbalance of power.

- For example, this prohibition does not apply to a pre-existing relationship between two spouses or life partners.

Criminal Background Checks

Logan shall require criminal background checks, at least every two year, in accordance with [the United States Olympic and Paralympic Committee's \(USOPC\) Background check policy](#) for all Designated Person's under the jurisdiction of Logan as it pertains to its responsibilities as an HPMO. This includes, but is not limited to, contracted staff and volunteers who are in a position over or have frequent contact with athlete participants which includes applicable employees, contractual staff, coaches, technical officials and adult athletes. Logan will accept current and favorable background checks from the National Center for Safety Initiatives (NCSI) and other reputable background check organizations approved by the USOPC. Logan's current background check policy (as it related to actions needed for results of background checks) will be enforced (Attachment A).

Education and Training

Effective with the issuance of this policy, Logan shall require education and training concerning the key elements of this athlete safety policy and the US Center of SafeSport program for applicable Designated Persons who have direct supervision over athletes. This training will extend to all adult athletes and minor athlete with parental consent. Training will include review of this policy document and completion of US Center of SafeSport training per the standards set forth by the US Center of SafeSport. This policy also extends to any non-athlete Logan authorizes on behave of USAPP to train or attend USAPP sanctioned/approved events/competitions/camps. Individuals will be required to demonstrate successful completion of US Center of SafeSport Training before being granted access to attending USAPP sanctioned/approved events/competitions/camps and successful undergo a background check. This policy document and a link to access US Center of SafeSport training will be posted in a prominent location on the USAPP page on Logan's website (www.logan.edu/usapp).

Procedures for Reporting a Complaint

The following are the procedures an athlete or should follow for addressing a complaint of physical, emotional, and sexual misconduct. Violations of the US Center of Safe Sport Minor Athlete Abuse



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Prevention Policies are required to be reported per the Logan USAPP Complaint Procedures and the Logan USAPP Code of Conduct.

Reporting

The following is the recommended reporting structure

- Athletes are encouraged to contact USAPP's Athlete Representative
 - In the event the Athlete representative is a part of the complaint the athlete is encouraged to contact the Executive Director of Paralympic Operation at Logan
 - In the event the Executive Director of Paralympic Operation and the Athlete Representative are both apart of the complaint athlete is encouraged to contact Logan's Vice President of Human Resources

Additional reporting recommendations

- Individual is encouraged to call someone who can help and support them, such as a friend or relative and/or the police (911) if appropriate.
- If an individual observes or otherwise becomes aware of any of these behaviors, safely intervene to prevent the occurrence from taking place. If this is not possible is not possible the individual is strongly encouraged immediately report what he/she has observed and to contact the police (911) if applicable to the situation.

Filing a complaint

Athletes are encouraged to contact the current USAPP Athlete Representative, Executive Director of Paralympic Operations and/or Logan's Vice President of Human Resources should he/she have a complaint related to the physical, emotional, and sexual misconduct items outline in this document. Once reported to the USAPP Athletes Representative the appropriate chain of events (outlined in the next section of this document) will be initiated.

- A formal complaint is not required to initiate an investigation. Any physical, emotional, and/or sexual misconduct policy violation that becomes known by a mandated reported or USAPP staff member will be investigated.
 - A mandated reporter/responsible employee is defined as any Logan staff member who has the authority to take action to redress misconduct and harassment or has the duty to report misconduct and harassment to appropriate official(s)
- A complainant is also encouraged to file a report with the appropriate law enforcement agency by dialing 911 is applicable to the situation. The USAPP Athlete Representative, Executive Director of Paralympic Operations of USAPP and/or Logan's Vice President of Human Resources can assist with notification of law enforcement, if desired by the complainant. A complainant my simultaneously pursue criminal and Logan processes, but also has the right to decline to notify law enforcement
- Once a complaint is made, formal or informal, the staff of Logan's Paralympic Operations Department will be informed (as needed) to ensure the individual is not placed in any situations that will cause them to feel threatened or unsafe.

Procedures for Disciplinary Action in Cases of Alleged Misconduct Offense

Investigating a Complaint

- Upon receipt of a complaint against a USAPP member (the "Respondent"), USAPP Athlete Representative is to report the matter to the Executive Director of Paralympic Operations at

Logan. The Executive Director of Paralympic Operations, or his/her respective designee, along with the Athlete Representative, may conduct an investigation or, at his/her discretion, request that an independent investigative agent conduct such an investigation. Hereafter, references to "Investigator" will be taken to mean the Executive Director of Paralympic Operations and the Athlete Representative, or the independent investigative agent, as the case may be. The Investigator will commence an investigation within seven business days of notification (see Figure 2). **Anonymous reports may be made verbally or in writing. All violations of the US Center of SafeSport Code will be turn over to the US Center of SafeSport for investigation.**

- In the event the USAPP Athlete Representative and the Executive Director of Paralympic Operations are apart of the Reporting Party complaint, the role of the investigator will fall on Logan's current Vice President of Human Resources
- During the investigation, both the "Reporting Party" and "Respondent" will be interviewed. Additional witnesses to support the statements of both parties may also be interviewed. Prior to the completion of the investigation, each party will have the chance to review their statements to ensure accuracy.
- Upon completion of the investigation, a written report will be filed. The report will describe in detail the relevant facts and circumstances concerning the complaint and may include statements from both the "Reporting Party" and the "Respondent". The investigative report may also include any witness statements, police reports, emails, text messages, video or other evidence to support statements.
- At any point before, during, or after the investigation the Logan administration may determine that interim or remedial measures, directed at the parties, witnesses, or a broader USAPP membership population, are necessary and appropriate to prevent and/or respond to physical, emotional, and sexual misconduct. Depending on the specific nature of the allegation, such measures may include, but are not limited to implementation of a no-contact order, counseling services, and accommodations, etc.

Adjudicating a Complaint

- The Executive Director of Paralympic Operations and the Athlete Representative will assign the complaint to a Hearing Officer, who is charged with reviewing the case to determine whether there was a violation of the Misconduct Policy.
 - The hearing officer will be a third-party individual and in most cases this task will be delegated to Logan's current Vice President of Human Resources
 - In the event Logan's Vice President of Human Resources takes on the role of the investigator, he/she will be given the authority to assign the Hearing Officer
- Both the reporting party and responding party will have an opportunity to meet with the Hearing Officer. During this meeting the Hearing Officer may ask follow-up questions based on information in the investigative report. The parties will also have an opportunity to share any relevant information with the hearing Officer. Both parties will have an opportunity to be accompanied to the hearing with an individual "advisor"
 - The role of the advisor is to provide support
 - Logan does not restrict the right of the reporting party or respondent to choose their advisor
 - This "advisor" may consult and interact privately with the individual during the hearing but may not perform any function in the process other than advising the individual.



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- Based upon the information provided in the hearings, investigative report, and any consultation with appropriate resources, the Hearing Officer will make a determination of responsibility using the preponderance of the evidence standard. This standard is whether an event was more likely than not to have occurred
- If a party is determined to be responsible for a Misconduct Policy violation, the Hearing officer with consultation for the Logan administration may impose sanctions up to and including suspension and/or dismissal from USAPP affiliations included by not limited to
 - All World Para Powerlifting (WPP) sanctioned/ recognized events/camps/competitions that USAPP is scheduled to participate
 - All USOPC sanctioned recognized events/camp/competitions specific to USAPP
 - All USAPP sanctioned/recognized development events/camps/competitions
- Each party will receive written notification of determination of the hearing process, including any imposed sanctions
- Absent special circumstances, the investigation and hearing process will be completed within 60 days, since the notice of violation was received.

Appealing a Decision

- Either party may appeal the decision, by submitting a written request to the Director of USAPP and the Athlete Representative. Appeals must be received within 7 days from when the notice of decision was sent to the parties.
- Appeals will be received only if there is a claim that
 - There was a material deviation from the stated Logan policy and procedures in the investigative and hearing process.
 - There is new and relevant information that has the potential to change the outcome of the case that was not available during the investigation.
- Each party will receive written notification of the appeal
- If there is grounds for an appeal, the case will be reviewed by an Appeal Board.
 - If the Appeal Board upholds an initial decision of responsible, the sanctions imposed will go into effect.
 - If the Appeal Board overturns the initial decision of responsible to not responsible, imposed sanctions will be rescinded.
 - If the Appeal Board overturns the initial decision of not responsible to responsible, the Appeal Board may determine sanctions.
 - The decision of the Appeal Board is final.
- Both parties will be notified in writing in regards to the final decision of the Appeal Board and any sanctions.

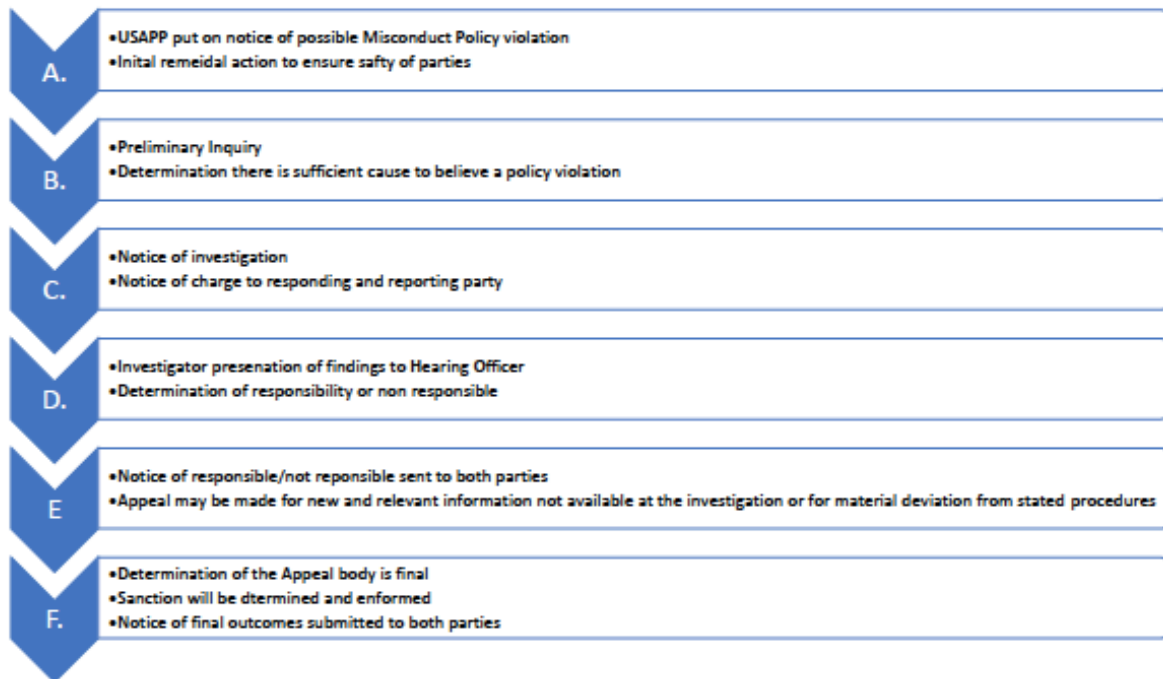


Figure 2: USAPP Grievance Process Model

Procedures for Disciplinary Action in Cases of Alleged Misconduct Offense

Additional items

This policy may be amended from time to time by the USOC/US Paralympics. Additionally, USAPP/Logan shall be guided by the principle that the health, safety and well-being of our athletes are fundamental elements of our managerial responsibility. Logan understands that failure to meet the minimum standards as set forth by this policy may result in disciplinary action by the USOPC including, without limitation:

- USAPP loss of status as a USOPC Paralympic Sport
- Logan loss of status as a USOC Paralympic HPMO for USAPP

Additionally, an individual who has committed a SafeSport violation who receives USOC/US Paralympic and/or Logan benefits may, at the discretion, lose those benefits. Benefits that may be lost or restricted may include, but are not limited to the following as the sport grows and continues to develop:

- Athlete support payments
- Tuition grants
- Elite athlete health insurance
- Athlete marketing programs
- Athlete service centers career assistance programs
- Media services
- USOPC workshops, conferences and summits
- Personal development programs
- Sports medicine and performance services
- Sports coaching and education programs.



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Additionally, individuals may lose opportunities to participate in or be associated with the U.S. delegation at a Delegation Event and any other competition or event as determined by the USOPC.

For guidance and questions regarding the Code please contact the U.S. Center for SafeSport (www.safesport.org).



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Attachment A

Criminal Background Checks

It is a privilege for Logan HPMO of USAPP. To ensure the safety and well-being of all athletes and participations, background checks will be required of all adult athletes and Designated Person of Logan HPMO of USAPP that are to come into regular contact with the athletes. It is therefore important that all Designated Persons and adult athletes within the program have current background checks prior to having contact with athletes and more frequently if required by a USOPC sponsored events. Results of background checks will be made available to the appropriate USAPP staff, athletes and to the necessary Logan staff and administration. Individuals considering applying to the Logan USAPP sponsored program should be aware that, based on certain criminal convictions, some affiliates may not accept an applicant for assignment or may rescind a previous acceptance. In such an event, and depending on the circumstances, the applicant may be unable to participate in the event. Depending on the nature of the event and how it affects the status and progression of the team, staff, volunteers, and coaches who are unable to participate in these events may be subject to dismissal from USAPP which is governed by Logan. In addition, certain criminal convictions may result in the denial of the credentials needed to participate. Prospective staff, volunteers, coaches, and adult athletes who are concerned about a criminal conviction are urged to contact the relevant state and/or federal agencies to inquire whether their criminal record may adversely affect the issuance of the credentials needed to participate.

Background checks are completed prior to entering the specific Pathway of Development or prior to working with USAPP. Staff, volunteers, coaches, and adult athletes with any criminal conviction, guilty or no contest pleas for the following shall not participate Logan USAPP events:

1. Rape
2. Criminal deviate conduct
3. Exploitation of an endangered adult or a child
4. Failure to report battery, neglect, or exploitation of an endangered adult or a child
5. Theft, if the person's conviction for theft occurred less than 10 years before the date of submission by the person of an application for the criminal background check for the purposes
6. Conviction of any crime which requires registration with any state or national sexual offender registry
7. Child abuse
8. Aggravated murder
9. Murder
10. Voluntary manslaughter
11. Felonious assault
12. Kidnapping
13. Sexual battery
14. Aggravated arson
15. Aggravated robbery
16. Aggravated burglary

Any misdemeanor or felony drug law conviction leading to ineligibility must be documented with an explanation as to why it makes the staff, volunteers, coaches, or adult athlete ineligible. These will be



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reviewed and concerned on a case by case basis. Questions about the criminal background check process may be directed to the Executive Director of Paralympic Operations at Logan.