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New Safe Sport Act Applies to Most Amateur Sports Organizations

Requirements for Child Abuse Prevention Reporting, Training and Policies

President Trump signed the federal [Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017](#) into law in February 2018. Many believe that this act primarily applies to [National Governing Bodies \(NGBs\)](#) such as U.S. Gymnastics, [Paralympic Organizations](#) and their member organizations. However, it also directly or indirectly applies to all amateur youth sports organizations.



This article will concentrate on the impact and ramifications of mandatory reporting, training, and prevention policies to non-NGB amateur sports organizations, which will be referred to as "Non-NGB sports organizations."

Why the Safe Sport Act will be effective

I'm not a proponent of the federal government getting involved in these types of matters. But I have to admit that this legislation was intelligently designed to have a broad-based impact on actually protecting our youth. The same is not true of initiatives that concentrate solely or primarily on criminal background checks. That's because only about 5% of sex abusers even have a criminal background that could be detected.

Don't get me wrong. Criminal background checks are a must as a level of minimum due diligence. But they don't impact the other 95% of the sex abusers who don't have a criminal record. Furthermore, the Safe Sport Act also applies to all forms of child abuse, including physical and emotional abuse.

Which non-NGB sport organizations are required to comply?

Non-NGB sports organizations include those teams, leagues, camps, sports facilities, tournament hosts, churches, and schools that participate in interstate or international amateur athletic competitions, and whose membership includes any adult who is in regular contact with an amateur athlete who is a minor.

The reach of the federal act is limited to organizations that are engaged in interstate or international commerce or activities. Interstate competition refers to sports organizations that travel across state lines to compete. But even those that do not travel across state lines are indirectly impacted by the act because it sets a new standard of care that will likely apply to all organizations. Most states will also move to pass state-specific legislation that directly applies to sports organizations that do not cross state lines.

What Is directly required of non-NGB sports organizations under the Safe Sport Act?

Mandatory Reporting

"The term 'covered individual' under the Safe Sport Act means an adult who is ... authorized by an amateur youth sports organization that participates in interstate or international amateur athletic competitions to interact with a minor or amateur athlete at an amateur sport organization facility or at an event (including travel, lodging, practice, competition, and health or medical treatment) sanctioned by an amateur sports organization."



Participating adults are required to report suspicions of child abuse including sex abuse, as soon as possible (within a 24-hour period) to the appropriate law enforcement agencies, as determined by state or federal law.



Each state has a separate law relating to mandatory reporting of child abuse and neglect. Some states require every adult to report suspicions of abuse and neglect. Others only require certain adults to report under certain circumstances.

The Safe Sport Act provides a limitation of liability provision that protects the sports entity and any officer, employee, agent, or member who reports suspicions of abuse. They are protected against civil actions for defamation, slander, and libel arising from the execution of their functions under the Act. In addition, the Act prohibits retaliation by the amateur sports organization against the reporting individual.

Mandatory Prevention Training

Non-NGB sports organizations must **“offer and provide consistent training to all adult members who are in regular contact with amateur athletes who are minors, and subject to parental consent, to members who are minors regarding prevention and reporting of child abuse...”**

It is important to note that the type of training contemplated under the Act is not merely to identify those who may already have been victimized by abuse by a list of indicators. Instead it is to learn how to prevent sexual abuse from occurring. In other words, **the training must be proactive rather than reactive.**

The most essential part of proactive training is to learn the process of sexual grooming of both minor victims and parents. Grooming is the process by which predators gain access to vulnerable youth, gradually introduce sexual interaction, and then keep the child silent. Our blog [“Protecting Against Sexual Abuse And Molestation”](#) does an excellent job of explaining the grooming process and boundary invasion techniques used by sexual predators.



The key to preventing the grooming process is to train all participating adults in a sports organization on understanding how it works, identifying when it is occurring, and taking appropriate action.

Mandatory Prevention Policies

The Safe Sport Act requires sports organizations to **establish reasonable procedures to limit one-on-one interactions between an adult and an amateur athlete who is a minor... without being in an observable and interruptible distance from another adult.**

The Safe Sport Act has been criticized for not requiring other prevention procedures for non-NGB sports organizations. However, in addition to limiting one-on-one interactions, a well-written child abuse/molestation risk management program will incorporate other more specific prevention policies such as:

- Requiring the presence of more than one adult at every activity
- Having a take-home/pick-up policy to prevent one-on-one situations with a child who was not picked up by parents after practice
- Defining appropriate touching of a child
- Avoiding socialization with participants outside of sponsored activities
- Avoiding overnight sleepover social functions.

Indirect application of the Safe Sport Act to non-NGB sports associations

The emphasis of this article keys in on the less stringent requirements of mandatory reporting, prevention training, and prevention policies that directly apply to non-NGB sports organizations.

However, there are many more stringent requirements for NGBs and Paralympic sports organizations and their members that don't directly apply to non-NGB sports organizations. The Safe Sport Act requires NGBs and Paralympic organizations to work with the [U.S. Center for Safe Sport](#). The USCSS exercises jurisdiction over NGBs with regard to safeguarding amateur athletes against abuse. This includes further training, oversight policies, and procedures to prevent all forms of child abuse. Child abuse is a much broader topic than just sex abuse and also includes emotional and physical abuse.

The additional policies required of NGBs through their association with U.S. Center for Safe Sports include:

- Mandatory reporting to the U.S. Center for Safe Sports
- Mechanism for reporting
- Procedures to prohibit retaliation
- Oversight procedures, such as regular and random audits conducted by subject matter specialists to ensure that policies are being correctly followed.

It could be argued that these additional, more stringent requirements for NGBs and Paralympic organizations have set a standard of care that could apply to all sports organizations.

What if an amateur sports organization fails to comply and does not meet the standard of care?

Quite simply, failure to comply with a federal statute meant to protect the public safety is negligence per se and an easy win for the claimant. Under the Act, the claimant may bring a civil lawsuit in U.S. District Court. They can recover actual damages or liquidated damages in the amount of \$150,000 and the costs of the action including reasonable attorney's fees. The court may also allow punitive damages.

Insurance carriers offering coverage for sex abuse / molestation may demand compliance with the Safe Sport Act as an underwriting requirement as a pre-condition of coverage.

Recommendation for compliance with the Safe Sport Act:

1. Your sports organization should have a written child abuse risk management plan that satisfies the mandatory reporting, education, and prevention policies.
2. Distribute the plan via paper or electronic format on an annual basis to all participating adults who are in regular contact with minor amateur athletes. Be able to obtain their written acknowledgment that they have received and completed the training.
3. Document compliance with 1 and 2 above so that it can be introduced into evidence in the event of an allegation covered by the Safe Sport Act.



Free risk management materials provided by Sadler to help with compliance

Sadler Sports Insurance has existing child abuse / molestation resources that already comply with the vast majority of direct requirements under the Safe Sport Act for non-NGB sports organizations. However, some minor tweaks are presently being made to update the reporting requirements and to provide more in-depth education on the grooming process.

Here is a list of our child abuse / molestation resources:

[Child Abuse/Molestation Protection Program](#) – Administrators (long form, including Volunteer Application and Disqualification Criteria)

Child Abuse/Molestation Protection Program – Administrators (short form) ([Word Doc](#))

[Child Abuse/Molestation Awareness Training](#) (Administrators and Staff)

[Child Abuse/Molestation Handout for Parents](#)

[Criminal Background Check Vendors](#)

[Types Of Criminal Background Checks Does Your Criminal Background Check Vendor Measure Up?](#)

NAYS Bullying Prevention Training – [Free Video](#)

Final Thoughts

The Safe Sport Act is new and many questions are already arising as to the interpretation of some provisions and the applicability of special circumstances. It will take many years of court cases to further answer these questions.

There are no cookie cutter amateur sports organizations. Some organizations have only one or several competitive teams that travel over state lines to compete. Others may have only one or several teams sanctioned by an NGB. In such situations, clients are asking whether the Safe Sport Act applies and for the entire organization and all participating adults or just to the teams that travel across state lines or are members of an NGB and their participating adults? My advice is to err on the side of caution. Implement the required child abuse risk management programs across the entire organization.

Sources:

- [S.534 – Protecting Young Victims from Sexual Abuse and Safe Sport Authorization Act of 2017](#)
- [Preventing Child Sexual Abuse in Youth Sport – New Federal Legislation Takes Extraordinary Step](#)

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