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ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
**COMMITTEE ON ENERGY AND COMMERCE**  
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July 13, 2018

Mr. Tim Hinchey  
President and CEO  
USA Swimming  
One Olympic Plaza  
Colorado Springs, CO 80909

Dear Mr. Hinchey:

Thank you for appearing before the Subcommittee on Oversight and Investigations on May 23, 2018, to testify at the hearing entitled "Examining the Olympic Community's Ability to Protect Athletes from Sexual Abuse."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Friday, July 27, 2018. Your responses should be mailed to Ali Fulling, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to [Ali.Fulling@mail.house.gov](mailto:Ali.Fulling@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Gregg Harper  
Chairman  
Subcommittee on Oversight and Investigations

cc: The Honorable Diana DeGette, Ranking Member, Subcommittee on Oversight and Investigations

Attachment

## **Attachment—Additional Questions for the Record**

### **The Honorable Gregg Harper**

1. According to various reports, some NGB members that have been accused of sexual abuse have been allowed to continue coaching or competing, and having contact with minor athletes, even while they are under investigation. The purpose of interim measures is to prevent an alleged abuser from continuing the pattern of abuse during the period of time in which that individual is under investigation. Is it your practice to take an interim measure, such as suspending the member, while that individual is under investigation?
  - a. If so, what are the types of interim measures that might be used and what determines which type of interim measure is used?
  - b. If an allegation is turned over to the U.S. Center for SafeSport (the Center), what authority does USA Swimming have to implement interim measures while the Center investigates?
    - i. Does the nature of the interim measure adopted differ based on whether the NGB or the Center is conducting the investigation?
  - c. Is some measure taken in every case, or is this determined on a case by case basis? If a measure is not taken in some cases, why not?
  - d. If an interim measure is imposed, how quickly are such interim measures implemented?
  - e. Whose responsibility is it to enforce the interim measures? What are the potential consequences if an interim measure is not adequately enforced?
2. During the hearing, Representative Costello asked you what types of background check results would lead USA Swimming to deny or terminate an individual's membership. Can you please clarify any policies or procedures that USA Swimming has regarding background checks on any individuals associated with USA Swimming (e.g., athletes, coaches, volunteers, etc.)?

### **The Honorable Chris Collins**

1. Non-disclosure agreements are widely used in business resolutions, and serve as useful tools in not only creating confidential relationships between parties, but also protecting certain confidential and proprietary information. Whether it be unilateral or multilateral, they vary in nature – protecting trade secrets and intellectual property, formalizing a relationship between collaborating organizations, or serving as an added layer when resolving disputes between individuals and entities. Within the Olympic community, various news sources revealed some sexual assault victims are bound by NDAs as part of their settlement agreement. One of the most widely publicized instance is the case of

Olympic gold medalist, McKayla Maroney, who signed an NDA with USA Gymnastics in late 2016. However, USA Gymnastics chose not to seek action against Maroney when she breached her NDA earlier this year by speaking at the sentencing hearing of serial child molester, Larry Nassar. I would like to better understand the driving factors in NDA utilization within the Olympic community, as it may be indicative of protecting the brand and management more so than treating the problem at its source – stopping sexual abuse.

- a. How many NDAs has your organization entered into since 2005 and when was the most recent NDA or settlement entered into? Of those NDAs, how many were minors at the time of the dispute?
- b. As to the nature of these NDAs or settlements, do the agreements prohibit the victim from speaking about the details of the settlement – such as the amount of any financial award – or do they prohibit the victim from speaking about the details of the case – such as the fact that they were abused, where and when the abuse occurred, who their abuser was, etc.? Are any of these NDAs entered into in lieu of the responding party being given appropriate sanctions, such as being suspended or banned from the NGB?

**The Honorable Frank Pallone, Jr.**

1. USA Swimming created its own SafeSport program in 2010 to foster “a healthy, safe and inclusive environment.” Still, in each year since 2010, USA Swimming has received multiple reports of sexual misconduct. For example, the documents you submitted to the committee indicate that there were 18 reports in 2015; 12 reports in 2016; and 16 reports in 2017. Has USA Swimming conducted a thorough examination to understand why the number of reports of abuse has not declined since 2010? If so, what has USA Swimming learned?
2. USA Swimming commissioned the Gundersen National Child Protection Training Center to review the USA Swimming SafeSport program in 2013. You received a report from Gunderson on 2014, and follow-up Progress Updates in 2015 and 2017. The 2017 Progress Update included several recommendations that had not yet been implemented, such as requiring all children and parents to take Safe Sport training, placing a Safe Sport coordinator in every club, and developing a pool of medical and mental health treatment experts. Has USA Swimming implemented these recommendations? If not, why not, and what is the timetable for full implementation?
3. Before USA Swimming commissioned the Gundersen National Child Protection Training Center, USA Swimming requested that Praesidium and Child Welfare League to produce comprehensive athlete protection education programming. How many studies were conducted on sexual misconduct previous to Gunderson? Please summarize the findings of those studies.