



**Recommendations to Congress:  
Reforming the U.S. Olympic Committee  
to Ensure Health and Livelihood of Athletes**

September 19, 2018

## EXECUTIVE SUMMARY

OlympiansRising is a non-profit organization founded by August Wolf, OLY. Our mission is to reform the United States Olympic Committee (USOC), the coordinating body for all Olympic sports in the U.S., to ensure that the health and livelihood of athletes are its top priority. Several Olympians actively support our work and mission including: Bode Miller, six-time Olympic Medalist in skiing; Caroline Lind, two-time Olympic Gold Medalist in rowing, 2008 and 2012; Kayla Harrison, two-time Olympic Gold Medalist in Judo, 2012-2016; and Jimmy Pedro, two-time Olympic Medalist in Judo, 1996 and 2004.

In the wake of revelations about the sexual abuse of Olympic athletes, most notably by former USA Gymnastics team doctor Larry Nassar, it is essential to examine ways to reform the governance of Olympic sports, beginning with the USOC. Specifically, the lack of an external reviewing authority; insufficient athlete representation; and lax reporting requirements, all mean that the interests of athletes are not put first. This lack of accountability impacts athletes in all Olympic sports and directly affects their health, funding, and success.

As a first step in addressing these underlying issues, we offer the following set of recommendations. As is the case with how regulators have tackled sexual assault in the military, we believe the culture of sexual abuse illustrates larger systemic problems within the organization. While there are additional issues not addressed here, we nonetheless believe these reforms would significantly improve athletes' lives and move to a system that prioritizes the interests of athletes. Our recommendations cover the following categories and are presented in an Issue:Solution format to maximize clarity:

- I. Athlete Protection, Representation, and Funding**
- II. Corporate Governance of the USOC**
- III. Giving SafeSport the Necessary Tools to be Effective**

Our recommendations related to sexual assault are derived in part from the June 2014 report of the *Response Systems to Adult Sexual Assault Crimes Panel* ("the Military Panel"), the federal advisory committee within the Department of Defense (DoD) commissioned by Congress. Borrowing from the Military Panel's recommendations, we suggest the creation of a Special Victim Counsel program that would provide specially-trained legal advocates for athletes throughout the process of filing and litigating a claim. We also make recommendations for oversight of USOC based on the internal structure of executive agencies. Specifically, we recommend adopting term limits for members of the Board of directors and the creation of an Office of Inspector General with investigative and subpoena powers to augment board oversight. Additionally, we offer solutions to increase direct funding to athletes, ensuring they are treated equitably and able to pursue their dreams.

OlympiansRising hopes to serve as a resource to federal officials and to provide the perspective of athletes on these crucial topics. We urge Congress to continue holding hearings to review these findings and explore ways to improve USOC operations.

## OLYMPIANS RISING RECOMMENDATIONS

### I. Athlete Protection, Representation, and Funding

- a. Provide Robust Health Insurance: USOC should provide robust health insurance—physical and mental—to all athletes.

- i. Issue:

1. Olympians currently are forced to patch together a variety of health care insurance options to meet their needs. The plan benefits of USOC’s much-touted “Elite Athlete Health Insurance Program” (EAHI) are opaque and only appear to provide Affordable Care Act (ACA)-required coverage to select, “high-tier” athletes, leaving many with very high deductible plans.<sup>1,2</sup> As of February 2018, about 925 elite athletes were covered by EAHI. To put that in perspective, around 1,000 athletes compete in the Olympic trials for Track and Field alone.<sup>3</sup> Limited EAHI slots for athletes are distributed unevenly among the National Governing Boards (NGBs), with eligibility and criteria for insurance coverage varying by sport.<sup>4,5,6,7</sup>

- a. Jill Pilgrim, executive director and general counsel for the Track & Field Athletes Association, a trade association representing track and field athletes, argues that even successful athletes, albeit ones who are not podium contenders, “fall off a cliff” when they age out of their parents’ health plans or graduate college. This is particularly harmful for injured athletes who may be prevented from competing since their medical bills may reach tens of thousands of dollars.<sup>8</sup>

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<sup>1</sup> See: “Olympic Athletes Patch Together Elite Health Coverage,” Bloomberg Law, February 9, 2018, [here](#)

<sup>2</sup> “United States Olympic Committee: Elite Athlete Health Insurance Program and The Affordable Care Act – 5/17/2015” at Slide 4, <https://assets.usarugby.org/docs/usoc/EAHI-Update-Pam-Sawyer.pdf>

<sup>3</sup> See: <https://goducks.com/news/2018/8/2/track-and-field-eugene-to-host-2020-us-olympic-team-trials.aspx?path=track>

<sup>4</sup> [http://www.usashooting.org/library/Policies\\_and\\_Procedures/Updates\\_12013/Direct Athlete Support DAS Paralympic- Stipends EAHI Medal Incentives 01-30-13.pdf](http://www.usashooting.org/library/Policies_and_Procedures/Updates_12013/Direct_Athlete_Support_DAS_Paralympic- Stipends EAHI Medal Incentives 01-30-13.pdf)

<sup>5</sup> [https://cdn.ymaws.com/www.americancanoe.org/resource/resmgr/competition-documents/ACA\\_2018\\_Athlete\\_Criteria\\_Li.pdf](https://cdn.ymaws.com/www.americancanoe.org/resource/resmgr/competition-documents/ACA_2018_Athlete_Criteria_Li.pdf)

<sup>6</sup> <http://www.usatf.org/usatf/files/1b/1b707878-346d-4aaa-aac3-3268d77210cb.pdf>

<sup>7</sup> <http://www.usrowing.org/wp-content/uploads/2017/01/2017-2018-EAHI-Criteria-2.pdf>

<sup>8</sup> Bloomberg Law, Id.

2. USOC must also provide robust services for all athletes' mental health, whether currently competing or retired, as "[a]thletes may be more predisposed [...] to depression..."<sup>9</sup> Michael Phelps has stated that 75-90% of Olympic athletes experience "post-Games depression" but that very few are willing to talk about it openly, possibly due to fear of the associated stigma of weakness.<sup>10</sup> USOC's Pivot Program offers services such as a one-and-a-half day workshop to retiring athletes to assist their transition to post-elite competition careers; however, the program materials do not mention "mental health" a single time.

ii. Solution:

1. Provide guaranteed, comprehensive health services to Olympic athletes, and ensure mental health is integrated in athletes' coaching and training. Other countries or sports entities have taken a variety of approaches to providing comprehensive health care to their athletes. We recommend consideration of these and other models to ensure robust coverage.
  - a. At a minimum, expand the Elite Athlete Health Insurance plan to cover all athletes in each sport. Explore additional options to offer comprehensive health care to all Olympic and aspiring Olympic athletes. NCAA athletic directors have discussed an interesting solution where they would pool their athletes in order to bargain for better insurance policies and rates.<sup>11</sup> This is a concept similar to state health insurance purchasing cooperatives (HIPCs); while traditional HIPCs have struggled to succeed, the model could be more successful in this setting.<sup>12</sup>
  - b. British scientists proposed a particularly innovative model: an "integrated performance health management and coaching model" where health care and specifically

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<sup>9</sup> Mummery K. (2005). Essay: depression in sport. *Lancet* 366 S36-S37. 10.1016/S0140-6736(05)67840-3.

<sup>10</sup> Boren, Cindy. "I straight wanted to die': Michael Phelps wants USOC to help athletes cope with depression." Washington Post, March 28, [https://www.washingtonpost.com/news/early-lead/wp/2018/03/28/i-straight-wanted-to-die-michael-phelps-wants-usoc-to-help-athletes-cope-with-depression/?utm\\_term=.0e65d65e1511](https://www.washingtonpost.com/news/early-lead/wp/2018/03/28/i-straight-wanted-to-die-michael-phelps-wants-usoc-to-help-athletes-cope-with-depression/?utm_term=.0e65d65e1511)

<sup>11</sup> See: <https://www.cbssports.com/college-football/news/ncaa-ads-consider-pooling-athletes-for-cheaper-better-health-insurance/>

<sup>12</sup> <https://pdfs.semanticscholar.org/fde0/5f05e6e620f0d10d4b5b3fa511babdd77b8f.pdf>

mental health services are integrated directly in NGBs and athlete management.<sup>13</sup>

- c. Another example comes from the Canadian Centre for Mental Health and Sport, a project undertaken by University of Ottawa psychologists described as “a not-for-profit organization supporting the mental health and performance of competitive and high-performance athletes and coaches. The CCMHS is the first Centre in Canada to offer collaborative sport-focused mental health care services designed to help athletes and coaches achieve their performance goals while preserving their mental health and well-being.”<sup>14</sup>
  - d. Programs in both the UK and Canada to address mental health, like those described above, are recent phenomena and signal the beginning of broader efforts in both countries.<sup>15</sup> If the U.S. moves to improve access to mental health services for its Olympic athletes, it could act as a model and inspiration for other countries seeking to adopt more comprehensive programs.
- b. Make the Athlete Ombudsman Independent and Accountable: Ensure that the Athlete Ombudsman independently represents athletes’ interests and promotes transparency in the USOC.
- i. Issue: The Athlete Ombudsman is not able to advocate for athletes, and the person holding the position is accountable to the USOC.
    - 1. The Athlete Ombudsman role is limited to “offering advice,” yet as stated on the USOC website, the Ombudsman is *only* independent with respect to the advice it gives.<sup>16</sup> The Ombudsman does not act as an advocate for athletes in any proceedings, and since the position is funded by and housed within the USOC executive committee, the Ombudsman’s ability to effectively address concerns about retribution or resources is undermined.<sup>17</sup>
    - 2. The lack of access to advocacy and counsel can have serious consequences. Gymnast McKayla Maroney testified that she was

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<sup>13</sup> Dijkstra, Paul et al. “Managing the health of the elite athlete: a new integrated performance health management and coaching model.” Br J Sports Med. 2014 Apr; 48(7): 523–531

<sup>14</sup> See: <https://www.ccmhs-ccsms.ca/>

<sup>15</sup> See: <https://www.outsideonline.com/2306711/american-athletes-need-better-mental-healthcare>

<sup>16</sup> See: <https://www.teamusa.org/Athlete-Resources/Athlete-Ombudsman>

<sup>17</sup> Sexton, Steve. “The U.S. Olympic Monopoly Needs Accountability.” Wall Street Journal, March 29, 2018.

made to sign a non-disclosure and non-disparagement agreement in a confidential settlement regarding the sexual abuse she suffered from Larry Nassar.<sup>18</sup> The presence of an effective Athlete Ombudsman might have been able to intervene in this process and more effectively advocate for athletes' rights.

- ii. Solution: The Ombudsman should be housed within an external body. Some have argued that the Ombudsman should be made accountable only to the Athlete Council.<sup>19</sup> The position could be strengthened by placing it within the office of an Inspector General, which we recommend creating at "II.a." below. Additionally, Congress should consider recommending that athlete advocates be assigned to every NGB. A similar version of this last proposal was a key recommendation of the *Response Systems to Adult Sexual Assault Crimes Panel* ("the Military Panel"), which sought to ensure victims' rights by urging the establishment of an Ombudsman, mirroring how the Department of Justice handles complaints against employees.
  1. Han Xiao, Chair of the Athlete Advisory Council, argues such a position could "directly represent the athletes involved, or [...] assist the athletes in hiring competent representation."<sup>20</sup>
- c. Establish a Special Victim Counsel Program: Create protections for athletes suffering from damage to their careers based on being a victim of sexual assault.
  - i. Issue: Sexual assault is destructive to athletes' careers and lives. This is particularly true for young athletes who experience abuse throughout their childhood/young adult life. Many have suffered depression, PTSD, and panic attacks, and many have had suicidal thoughts.<sup>21</sup>
  - ii. Solution: Establish a Special Victim Counsel Program. This is based on a recommendation of the Military Panel and has been adopted by the military. The Military Special Victim Counsel (SVC) program assigns a specially-trained attorney to represent officers throughout the process of creating and litigating a sexual assault claim. Importantly, an SVC's duty is only to the client and to no other person or entity. This would

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<sup>18</sup> See: <https://www.sltrib.com/news/nation-world/2017/12/20/gymnast-mckayla-maroney-says-settlement-covered-up-sex-abuse/>

<sup>19</sup> Id.

<sup>20</sup> See: [https://insurancenewsnet.com/oarticle/senate-commerce-subcommittee-issues-testimony-from-athletes-advisory-council#.W5\\_mLOhKiUk](https://insurancenewsnet.com/oarticle/senate-commerce-subcommittee-issues-testimony-from-athletes-advisory-council#.W5_mLOhKiUk)

<sup>21</sup> Hobson, Will. "At Larry Nassar sentencing hearing, a parade of horror and catharsis." Washington Post, January 18, 2018. Online at: [https://www.washingtonpost.com/sports/olympics/at-larry-nassar-sentencing-hearing-a-parade-of-horror-and-catharsis/2018/01/18/19bed832-fc55-11e7-8f66-2df0b94bb98a\\_story.html?utm\\_term=.5f58fdeb313e](https://www.washingtonpost.com/sports/olympics/at-larry-nassar-sentencing-hearing-a-parade-of-horror-and-catharsis/2018/01/18/19bed832-fc55-11e7-8f66-2df0b94bb98a_story.html?utm_term=.5f58fdeb313e)

provide a unique service not currently available to athletes: a legally-trained advocate with no ties to other interests or organizations. The program was found to be successful when studied in the Air Force; testimonials and survey results lead DoD to expand the program to all five services.<sup>22</sup>

d. Provide Athlete Stipends and Profit Sharing: Provide direct, monthly stipends to athletes.

- i. Issue: USOC spends very little on direct athlete support. According to 2016 IRS disclosure (the most recent available), while just over \$80 million, or 30% of USOC expenditures, went to “member support.” Of the 30% that went to member support, the vast majority of that funding, 84%, came in the form of grants to NGBs.<sup>23</sup> Grant funding feeds directly into the operating budget of NGBs and is not earmarked for direct athlete support. Although it is hard to determine exactly how many “member support” dollars are passed through to athletes, available stipend figures are discouraging. Most stipends range from \$400 to \$2,000 per month, barely equivalent to minimum wage, and many athletes receive nothing at all.<sup>24</sup> Even medal winners face insufficient resources: Caroline Lind, a two-time gold medalist in rowing, received just over \$2,000 per month this past year.<sup>25</sup> Additionally, a Tax Policy Foundation estimate found, using optimistic assumptions, that the funds USOC puts towards direct athlete contributions would come to \$14,000 per-athlete per-year, well below minimum wage.<sup>26</sup> In 2016, *The Washington Post* reported that over 100 U.S. athletes created GoFundMe pages to cover training expenses and travel for their families prior to the Rio Olympics.<sup>27</sup>

Even the bonuses USOC has paid to Olympic medalists through Operation Gold have increased slowly since 2002: \$37,500 for gold, \$22,000 for silver, and \$15,000 for bronze. This figure is low in absolute terms but also in relative terms when compared to what other

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<sup>22</sup> See: <https://www.stripes.com/news/air-force-program-a-rare-bright-spot-in-military-s-sex-assault-fight-1.269628>

<sup>23</sup> See: <https://www.teamusa.org/footer/finance>

<sup>24</sup> Gleckman, Howard. “Why is the U.S. Olympic Committee Tax Exempt?” Tax Policy Center, February 13, 2014. Online at: <https://www.taxpolicycenter.org/taxvox/why-us-olympic-committee-tax-exempt-0>; also: [https://www.washingtonpost.com/sports/olympics/the-usoc-needs-a-leader-who-cares-about-athletes-more-than-expense-accounts/2018/07/03/9554ded8-7ae5-11e8-80be-6d32e182a3bc\\_story.html?utm\\_term=.4fbd23ab01b8](https://www.washingtonpost.com/sports/olympics/the-usoc-needs-a-leader-who-cares-about-athletes-more-than-expense-accounts/2018/07/03/9554ded8-7ae5-11e8-80be-6d32e182a3bc_story.html?utm_term=.4fbd23ab01b8)

<sup>25</sup> See: <https://www.npr.org/2018/08/17/639407681/calls-for-widespread-change-challenge-incoming-head-of-u-s-olympic-committee>

<sup>26</sup> See: <https://www.taxpolicycenter.org/taxvox/why-us-olympic-committee-tax-exempt-1>

<sup>27</sup> See: [https://www.washingtonpost.com/news/inspired-life/wp/2016/07/06/the-hardest-part-about-making-the-olympics-for-these-americans-affording-it/?utm\\_term=.45d96e3d2311](https://www.washingtonpost.com/news/inspired-life/wp/2016/07/06/the-hardest-part-about-making-the-olympics-for-these-americans-affording-it/?utm_term=.45d96e3d2311)

countries allot for their medalists. For example, France provides gold medalists \$55,000, and Russia provides \$61,000.<sup>28</sup>

Meanwhile, USOC executives are compensated handsomely. According to the same 2016 IRS disclosure, former CEO Scott Blackburn earned over \$1 million annually, and eight other executives earned over \$250,000.<sup>29</sup> USOC also appears to spend irresponsibly in other areas; for example, it spent \$1,600 and \$1,800 per athlete on clothing for the 2012 Olympic opening and closing ceremonies respectively.<sup>30</sup>

ii. Solution:

1. USOC should determine the cost of fully supporting amateur athletes from ages eight until retirement in all Olympic disciplines. This assessment should be sent to Congress within six months.
2. USOC should increase direct funding to athletes. At a minimum, USOC should increase athlete stipends to ensure full-time athletes are able to earn a living wage.<sup>31</sup> In addition, USOC should explore a profit-sharing agreement with Olympic athletes. This would ensure that sufficient funds are directed to athletes each year and establish a more equitable distribution of funds between USOC and Olympic athletes.
  - a. The closest analogue for Olympic profit sharing would be proposals for profit sharing in NCAA sports. These proposals would pool athletes in a particular school sport program or, for our purposes, athletes within an NGB, and allocate a portion of total profits to be distributed amongst the pool. Some proposals would allocate a certain percentage of profit to each athlete, rather than treating them collectively. Under either system, NGBs would retain a sufficient amount of money to spend on employee compensation and other activities.<sup>32</sup>

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<sup>28</sup> See: <https://www.cnn.com/2018/02/16/how-much-olympic-athletes-get-paid.html>

<sup>29</sup> Id., this is justified via “market-based pay,” see: <https://www.forbes.com/sites/johnclarke/2012/05/22/guess-how-much-u-s-olympic-committee-execs-make/#68d1d1c84539>

<sup>30</sup> See: <https://greatnonprofits.org/whitelabel/reviews/united-states-olympic-committee>

<sup>31</sup> According to MIT estimates, a living wage in the U.S. is \$15.12 per hour, see: <http://livingwage.mit.edu/articles/19-new-data-calculating-the-living-wage-for-u-s-states-counties-and-metro-areas>

<sup>32</sup> For a detailed discussion of such a proposal, see, Michael P. Acain, *Revenue Sharing: A Simple Cure for the Exploitation of College Athletes*, 18 Loy. L.A. Ent. L. Rev. 307 (1998).

- b. Another option for direct support, adopted by Canada and many European Countries, is a sports lottery. In these countries, a certain percentage of national lottery revenues are earmarked for sports and distributed directly to athletes.<sup>33</sup>

## II. Corporate Governance: Addressing USOC Systemic Issues

OlympiansRising has identified systemic issues in the governance of USOC owing in part to a lack of accountability and insufficient attention to the concerns of athletes. USOC's well-documented mismanagement harms the interests of both current and aspiring Olympic athletes and must be addressed. Specifically, the USOC Board lacks sufficient representation from current and recently retired athletes and is required to report to Congress only once every four years. This creates little incentive to be responsive to athletes' concerns, and results in funds being focused on promotions and advertising rather than direct athlete support.

Recent revelations about the well-documented history of athlete sexual abuse provide some of the most compelling evidence yet of likely corporate governance problems within USOC. Despite being the organization responsible for overseeing all U.S. Olympic and Paralympic teams, USOC has deferred responsibility for the failure to respond to sexual assault. In a deposition over what he did and did not know about sexual assault in USA Taekwondo, USOC Associate General Counsel refused to refer to "sexual abuse," "sexual assault," or "rape" and merely stated "USOC is concerned about SafeSport issues."<sup>34</sup> USOC's apparent failure to sufficiently address sexual abuse has contributed to a perception among athletes that USOC is not serving their interests. 2012 Olympic Gold Medalist Jordan Wieber testified before the Senate Commerce Committee that:

Nobody was protecting us from being taken advantage of. Nobody was even concerned whether or not we were being sexually abused. I was not protected. My teammates were not protected. My parents trusted USA gymnastics and Larry Nassar to take care of me and we were betrayed by both. And now, the lack of accountability from USAG, USOC, and Michigan State University, have caused me and many other girls to remain shameful, confused, and disappointed.<sup>35</sup>

In order to help remedy these issues, OlympiansRising proposes the following recommendations to improve the corporate governance of USOC:

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<sup>33</sup> See: <https://www.thisismoney.co.uk/money/news/article-2187052/How-National-Lottery-tickets-funded-Britains-Olympics-success--Dianne-Thompson-interview.html>

<sup>34</sup> Deposition of Gary Johansen, Superior Court of California, September 27th, 2016, pg. 51.

<sup>35</sup> Testimony of Jordan Wieber before the Senate Commerce Committee hearing: "Olympic Abuse: The Role of National Governing Bodies in Protecting Our Athletes," April 18, 2018. Online at: <https://www.commerce.senate.gov/public/index.cfm/hearings?ID=B5D59828-1535-498F-A429-A6F6CEDFD066>

a. Establish an Inspector General for USOC

- i. Issue: The USOC operates as a monopoly in the U.S., without competition from other organizations and without regular independent oversight.
- ii. Solution: An independent oversight body should be established to routinely investigate claims of problems within the organization. In the U.S. government, an Inspector General (IG) leads an office charged with examining the actions of a government agency or military organization. IGs ensure their respective organizations adhere to established government policies, undertake audits, and monitor for misconduct, waste, and fraud. There is precedent for IGs in Congressionally-chartered not-for-profits. For example, the Legal Services Corporation, a Congressionally-established 501(c)(3), has an Office of Inspector General.<sup>36</sup>

1. Han Xiao, Chair of the Athlete Advisory Council, stated in testimony to the Senate that an IG would “preserve the anonymity of athletes, providing protection for whistleblowers,” allow for proactive investigations, and reduce legal costs to all parties. Xiao stated:

One potential model, for example, would have the Inspector General appointed and removed by the Chair of a separate Senate committee, most likely the Senate Judiciary Committee, and require the Inspector General to report on its operations to the Senate Commerce Committee on an annual basis.<sup>37</sup>

- iii. This sort of oversight by Congress is not unprecedented and would be similar to the creation of the United States Anti-Doping Agency (USADA), which was created at the behest of Congress and the Executive Branch to work alongside USOC.<sup>38</sup>

b. Manage Board Composition: Ensure athletes are sufficiently represented on the USOC Board.

- i. Issue: The current Board lacks sufficient athlete representation and only has two members who were active athletes in the past ten years.

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<sup>36</sup> See: <https://www.oig.lsc.gov/>

<sup>37</sup> Xiao, Han. Testimony before the U.S. Senate Commerce Committee Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security, ON THE FUTURE OF ATHLETE SAFETY: “Strengthening and Empowering U.S. Amateur Athletes: Moving Forward with Solutions” July 24, 2018.

<sup>38</sup> See: <https://www.usada.org/usada-recognized-as-official-anti-doping-agency-by-u-s-congress/>

- ii. Solution:
  - 1. Establish a streamlined role of Congress in nominating or/ratifying nominations.
    - a. One way for Congress to have a role could be to create an application process for Board membership similar to the Air Force Academy where an applicant needs a Congressional or Vice-Presidential nomination for consideration.
    - b. This should apply to all Board seats, including the chair.
  - 2. Establish a requirement for a minimum percentage of retired athletes on the Board who are within ten years out of retirement, as well as including athletes' parents on the Board.
  - 3. Other reforms could include a dual Board system, which has been extensively studied, where one Board handles oversight and conflict of interest issues and the other Board handling business matters.<sup>39</sup>
- c. Strengthen Board Accountability: Currently, the USOC Board has no ultimate accountability.<sup>40</sup>
  - i. Issue: Board members stay on the Board. This can produce intense status-quo bias in the face of reforms or new opportunities; it does not allow for constant integration of different perspectives; it can lead to general apathy on the part of Board members; and it prevents the removal of members who are detrimental to the Board's interests.<sup>41</sup>
  - ii. Solution: Adopt term limits. This approach has been proven by the Federal Energy Regulatory Commission (FERC), the Commodity Futures Trading Commission (CFTC), the Federal Trade Commission (FTC), and others. One of the traditional markers of an independent government agency is leadership with a limited number of fixed terms. These agencies are able to apply incredible focus to their specific duties.<sup>42</sup>

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<sup>39</sup> Blair, Margaret M. "Reforming Corporate Governance: What History Can Teach Us." 1 Berkeley Bus. L.J. 1 (2004). Online at: <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1000&context=bblj>

<sup>40</sup> See: <https://www.nytimes.com/2018/02/09/sports/scott-blackmun-usoc.html>

<sup>41</sup> See: <https://trust.guidestar.org/blog/2014/05/23/5-reasons-why-every-npo-board-should-have-term-limits/>

<sup>42</sup> Selin, Jennifer L. "What Makes an Agency Independent?" Vanderbilt University Working Paper, 2013. Online at: [https://www.vanderbilt.edu/csdi/research/CSDI\\_WP\\_08-2013.pdf](https://www.vanderbilt.edu/csdi/research/CSDI_WP_08-2013.pdf)

1. USOC reform legislation sponsored by Senator John McCain (R-AZ) in 2003 would have created staggered, four-year terms, and limit directors to six consecutive years of service.
2. Other federally-chartered entities, including the Tennessee Valley Authority, require Board members to be confirmed by the U.S. Senate, and limit terms to five years. Additionally, all proceedings of their meetings are open to the public.<sup>43</sup>

d. Evaluate Executive Compensation

- i. Issue: USOC executive compensation is disproportionately high in relation to the funds that go to direct athlete support.<sup>44</sup>
- ii. Solution: Undertake a review of USOC executive compensation. Ensure that Board review of executive compensation is required and undertaken by Board members with no conflicts of interest related to the compensation decision.<sup>45</sup>

e. Enhanced Congressional Oversight and Reports to Congress

- i. Currently, USOC must submit a report of its receipts and expenditures, a description of activities and accomplishments of the Committee, data concerning diversity in Olympic sports, and a description of steps taken to encourage the participation of women, disabled individuals, and racial minorities in amateur activities to Congress *every four years*.<sup>46</sup>
  1. Congress should require that reports be more frequent and consider adding criteria such as efforts to ensure the livelihood of amateur athletes. These reports should be publically available.
  2. In testimony before the Senate Commerce Committee, Xiao recommended the following:

I recommend one of two potential solutions: the first would be for Congress to establish an oversight committee in the same model as the U.S. Service

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<sup>43</sup> See: <https://www.tva.gov/About-TVA/Our-Leadership/Board-of-Directors>

<sup>44</sup> Jenkins Sally. "Congress must fix the USOC, and that includes exorbitant executive spending." Washington Post, March 27, 2018. Online at: [https://www.washingtonpost.com/sports/olympics/congress-must-fix-the-usoc-and-that-includes-exorbitant-executive-spending/2018/03/26/a051c898-3128-11e8-94fa-32d48460b955\\_story.html?utm\\_term=.348eedb08dc](https://www.washingtonpost.com/sports/olympics/congress-must-fix-the-usoc-and-that-includes-exorbitant-executive-spending/2018/03/26/a051c898-3128-11e8-94fa-32d48460b955_story.html?utm_term=.348eedb08dc)

<sup>45</sup> Blackwood, Amy. "The State of Nonprofit Governance." September, 2014. Online at: <https://www.urban.org/sites/default/files/publication/22951/413229-the-state-of-nonprofit-governance.pdf>

<sup>46</sup> 36 U.S.C. § 220511

Academies. An independent USOC Oversight Committee should consist of well-respected non-profit or civic leaders with the requisite expertise to evaluate the business practices of the USOC, provide recommendations to the USOC Board of Directors, and report directly back to Congress periodically. Alternatively, Congress could appoint several members of the USOC Board of Directors in a bipartisan manner. Both models would provide more outside perspective to the USOC's governance structure without significantly impacting the stability of the organization.<sup>47</sup>

- f. Conduct Sexual Assault Climate Survey: This idea is modeled on the Military Panel recommendations and would help USOC and Congress understand the prevalence and attitude towards sexual assault among athletes. Additionally, it would create an accountability mechanism, enabling outside observers to monitor the success of efforts to create a healthier environment for athletes. Sexual assault climate surveys ask participants to respond anonymously about perceptions of their institutions' climate for unwanted sexual assault, perceptions of how their institution responds to sexual assault, and whether and how often they have experienced sexual assault. The Department of Justice is a strong proponent of climate surveys and described the surveys as "essential" resources for addressing sexual assault on college campuses.<sup>48</sup>
  - i. In the military, the survey has been useful in understanding the scope of sexual assault and evaluating solutions implemented by service branches and the DoD. For example, recent survey results found the rate of sexual assault was declining but that a majority of victims who report cases of sexual assault experience some sort of backlash in their unit. The results, particularly reports of retaliation, elicited statements from Defense Department officials recognizing retaliation as a "crucial" problem and one that must be addressed. In this respect, the survey provided clear evidence that could be used to compel action.<sup>49</sup>

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<sup>47</sup> Xiao, Han. Testimony before the U.S. Senate Commerce Committee Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security, ON THE FUTURE OF ATHELTE SAFETY: "Strengthening and Empowering U.S. Amateur Athletes: Moving Forward with Solutions" July 24, 2018.

<sup>48</sup> See: <https://www.justice.gov/ovw/protecting-students-sexual-assault#campusclimate>

<sup>49</sup> See: "Sexual assault on both men and women in the military is declining, Pentagon survey finds."

Washington Post, May 1, 2017.

[https://www.washingtonpost.com/news/checkpoint/wp/2017/05/01/sexual-assault-on-both-men-and-women-in-the-military-is-declining-pentagon-survey-finds/?utm\\_term=.74122efd81ed](https://www.washingtonpost.com/news/checkpoint/wp/2017/05/01/sexual-assault-on-both-men-and-women-in-the-military-is-declining-pentagon-survey-finds/?utm_term=.74122efd81ed)

- ii. Sexual assault climate surveys are also used widely by colleges and universities to gather data on campus sexual assault and to guide strategic initiatives.<sup>50</sup>

### III. Giving SafeSport the Necessary Tools to be Effective

- a. Determine the Comprehensive Human and Financial Resource Needs of SafeSport

- i. Issue: SafeSport may lack the financial and human capital necessary to fully address the problem of Olympic sexual assault. As an example, the U.S. Anti-Doping Agency, USADA, had total expenses of \$20 million in 2016. SafeSport's budget was \$4.6 million, with just \$1.5 million going to prevention efforts.
- ii. Solution: Ask SafeSport to undertake a thorough assessment of the scope of the sexual abuse problem throughout all Olympic disciplines and develop a needs assessment that includes a sufficient financial and human resources budget. This assessment should be provided to Congress within six months.

- b. Create Independence from the USOC

- i. Issue: SafeSport should be independent from USOC. Concerns have been raised about Safesport's hiring of USOC staff and the fact that it is funded directly by USOC and NGBs.<sup>51</sup> There have been instances in which SafeSport reported evidence of sexual assault-related code violations that did not ultimately result in meaningful sanctions. For example, USA Diving recently lifted the suspension of John Appleman, an Ohio State Diving Coach who SafeSport reported may have committed a code violation for failing to act on reports of sexual assault by his colleague Will Bohonyi. USA Diving chose not to pursue SafeSport's investigation.<sup>52</sup> Similar instances have occurred in USA Swimming, as the organization never reported a signal sexual-abuse case to the authorities despite its National Team director admitting to have sex with a minor.<sup>53</sup>

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<sup>50</sup>Lebioda, Kati. "State Policy Proposals to Combat Campus Sexual Assault." Policy Matters, December 2015. Online at: <https://www.aascu.org/policy/publications/policy-matters/campussexualassault.pdf>

<sup>51</sup> See: <https://www.indystar.com/story/news/2017/03/08/safesport-center-answer-athlete-sex-abuse/98775554/>

<sup>52</sup> See: [https://tucson.com/sports/arizonawildcats/usa-diving-clears-coach-who-arizona-hired-then-dumped/article\\_5614141a-ac8f-11e8-8440-2f89b596eee7.html](https://tucson.com/sports/arizonawildcats/usa-diving-clears-coach-who-arizona-hired-then-dumped/article_5614141a-ac8f-11e8-8440-2f89b596eee7.html)

<sup>53</sup> See: <https://www.outsideonline.com/2162781/unprotected>. SafeSport has broad discretion over how to end its investigations. SafeSport can pursue sanctions, make recommendations to NGBs on how to proceed, or decide that no further action is necessary. See SafeSport's code: <https://safesport.org/what-we-do>

- ii. Solution: SafeSport should be encouraged to reconfigure its Board with people who have no current or historical affiliation with the USOC, including ensuring that a significant percent of its Board is comprised of athletes, parents of athletes, and people with expertise in preventing sexual abuse. Moreover, SafeSport needs its own funding, independent of the USOC.