



Special Olympics

Policy: Athletes with Criminal Histories and/or a History of Abusive/Violent Behaviors
Updated: September 2009

The Special Olympics US Risk Management & Insurance Task Force (RMITF) has updated the guidelines for athletes with criminal records or a history of abusive/violent behaviors.

By way of history, in 2002, at the request of US Programs, the RMITF, US Leadership Council, SONA staff and American Specialty developed guidelines for Programs to consider when they became aware of an athlete with a criminal history or abusive/violent behavior. These guidelines went through several iterations, with significant input from US Programs before they were finalized. The guidelines provided a framework for each US Program to use in developing its own policy.

In 2005, at the request of our liability insurer, Special Olympics required that all US Programs develop a written policy regarding athletes with criminal histories and violent or abusive behavior and strongly encouraged each US Program to utilize the guidelines developed in 2002 to create its own written policy.

Attached are the updated guidelines for each US Program's consideration. The primary changes in the guidelines have been made to update terminology and reflect the Special Olympics Volunteer Screening policy which has gone into effect since the guidelines were first drafted. The overall effect and intent of the guidelines remains unchanged. Each US Program should review its policy regarding athletes with a criminal record of history of abusive or violent behavior to ensure it is current and reflects the US Programs intent.

POLICY

It is a requirement that each US Program have in place a **written** policy relative to athletes with criminal records or a history of abusive/violent behavior. US Programs can choose to adopt the attached guidelines as the policy or develop its own policy, taking into consideration the guidelines when developing it.

As with any policy, it is critical that the policy be reviewed by the US Program's local legal counsel and that the US Program consistently follow its policy relative to athletes with criminal histories and violent/abusive behaviors.

If you have any questions regarding the guidelines or would like assistance in developing your own policy, please feel free to contact:

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PARTICIPATION OF ATHLETES WITH CRIMINAL RECORDS OR A HISTORY OF VIOLENT OR ABUSIVE BEHAVIOR

Principles

Special Olympics is an athlete-centered movement that welcomes athletes with intellectual disabilities of all abilities to participate in sports training and competition. Special Olympics is inclusive for all persons with intellectual disabilities over the age of eight and offers a Young Athletes program for individuals with intellectual disabilities under the age of eight.

The health and safety of all Special Olympics participants is of paramount importance to Special Olympics. Participants should feel that every Special Olympics event is a safe and positive experience and should not be fearful of other athletes, coaches or volunteers.

Because of our inclusive philosophy, the issue of how to treat athletes who have been convicted of violent crimes or who engage in violent, abusive, or disruptive behavior is particularly sensitive. Special Olympics Programs must balance the principles of inclusiveness and of providing a safe environment for all athletes, volunteers and staff members.

It is incompatible with Special Olympics principles to exclude athletes from participation based solely on a criminal conviction or a sexual abuse incident as long as the athlete can continue his/her participation in Special Olympics without posing a heightened risk to other athletes, volunteers or staff members. Special Olympics accepts individuals with intellectual disabilities as they are: Special Olympics needs to understand their mental handicap, applaud and nurture their abilities, and evaluate each athlete with a criminal record or behavioral problem individually. Hard and fast rules deny many potential Special Olympics athletes an opportunity to compete, to be accepted and to feel joy.

No Mandatory Criminal Background Checks of Athletes

Consistent with the above principles, and after consulting with outside risk management experts, SOI is **not recommending** that Programs conduct criminal background checks of Special Olympics athletes. Such checks place financial burden on Programs and subject athletes to a review that is not in keeping with the philosophy of Special Olympics. While Special Olympics is not recommending that Programs conduct criminal background checks on all current and potential athletes, we realize that it may become necessary in certain instances where the Program is made aware that an athlete may have a violent or abusive background (for example, notification from a concerned parent, newspaper article, etc.).

Athletes who apply to volunteer for Special Olympics, however, should be treated the same as all other volunteer applicants. Therefore, if the athlete is applying to be a Class A volunteer, the athlete is subject to the Special Olympics US Volunteer Screening Policy.

If an individual with intellectual disabilities is rejected by a Program as a volunteer, that individual may apply to be an athlete, in which case the Program would evaluate the individual in compliance with its policy on athletes with criminal histories and violent/abusive behaviors.

Policy

Every Special Olympics Program that does not already have a policy must establish a written policy for dealing with athletes with violent criminal histories or with a history of violent, abusive, or disruptive behavior. Such policies and procedures should provide a fair and even-handed approach, so that all athletes are treated consistently under similar circumstances. A policy should include the procedures for evaluating an incident, including the criteria with which the Program will measure the severity of the incident, and a policy should include the possible actions that the Program may take, depending on the outcome of the evaluation of the incident.

What follows are options that you can include in your own policy. A Program may use the criteria or options below, or may develop its own criteria and options.

Evaluating the severity of an incident.

When establishing a policy on dealing with athletes with violent criminal records or with a history of violent, abusive, or disruptive behavior, Programs must take into account several factors when determining the severity of an incident and what, if any, action needs to be taken. The criteria established by the Program must be applied on a case-by-case basis. At a minimum, the criteria should include the following:

1. **Type of offense/incident.** Violent behavior that damages property, while not to be ignored, should not be accorded the level of seriousness as behavior that injures or is intended to injure a person, such as a physical assault or sexual assault.
2. **Recency of the offense/incident occurred.** A recent offense/incident is of greater concern than one that took place many years ago (assuming no further incidents) – Programs should recognize that an individual can change and merit re-evaluation.
3. **Number of offenses.** Has the athlete committed multiple offenses/incidences of a similar nature, or are there a few isolated incidences?
4. **Athlete Capacity.** Is the athlete higher or lower functioning? Making this determination, if possible, can help a Program to determine if the athlete understood his/her conduct at the time of the offense/incident – a Program has a higher obligation to make reasonable accommodations for lower functioning athletes.
5. **Medication.** Was medication a cause of the behavior, either through its omission or its effect on the athlete? Adjustments in medications or protocols could reduce the risk or potential for adverse behaviors.

Options

When establishing a policy that addresses athletes with violent criminal records or with a history of violent, abusive, or disruptive behavior, every Program must develop multiple options that it can use according to the results of the above evaluation. The following list demonstrates several possibilities, in no particular order. Depending on the facts, a Program may immediately move to suspend an athlete or take other action the Program deems necessary to protect all of its athletes, volunteers and staff.

1. **Allow the athlete to participate on a probationary basis.** This gives the Program, the athlete, and the family a chance to review conduct on a systematic basis and to make any changes the Program deems necessary. The athlete and the family, care-giver or guardian should be informed from the outset that participation is conditional upon continued satisfactory behavior, what the probationary period is, and the system for review.
2. **Ensure there is a one-on-one volunteer to chaperone the athlete.** In the case of a non-violent athlete, the Program may ensure that there is a one-on-one volunteer to chaperone an athlete with a history of sexual abuse. The volunteer must be informed of the athlete's past behavior (without violating any privacy laws) and should be capable of helping the athlete avoid situations that may trigger unacceptable behavior. If the athlete participates as part of a group home or other type of facility, the Program may require that the home or facility provide the volunteer. All chaperones must be registered as Class A Volunteers and screened in compliance with the Special Olympics US Volunteer Screening Policy.

3. **Require the athlete attend counseling or anger management courses.** Athletes exhibiting certain types of behavior may respond well to counseling services including anger management, stress reduction or psychotherapy. Programs cannot provide these services; however, Programs can require that athletes attend such meetings or sessions as a condition of participation. This option may be combined with other options, and should be monitored to ensure compliance/progress.
4. **Prohibit athletes with histories of sexual abuse or violent behavior from overnight trips.** This option is less desirable than assigning a one-on-one volunteer to an athlete who has previously engaged in inappropriate sexual behavior or violent behavior, but would be appropriate when the risk to others cannot be sufficiently eliminated by a chaperone.
5. **Restrict the sports in which an athlete may compete.** Some sports, such as floor hockey and basketball, involve physical contact and emotion that can agitate an athlete to the point that he/she has a violent reaction. One option is to steer the athlete into sports such as track or aquatics with a lower likelihood of physical contact.
6. **Suspend the athlete temporarily.** A temporary suspension for a defined period of time may be the best solution depending on the seriousness of the behavior, in which case the Program should make clear to the athlete and family/guardian what steps must be taken for reinstatement, including when the review will take place, by whom, and what factors will be considered.
7. **Expel the athlete from or deny participation in Special Olympics.** This is the last, and least desirable, option inasmuch as it is the harshest for an athlete. Thus, expulsion or denial of participation must be subject to due process safeguards, including a hearing and right to appeal, in order to protect the athlete and the Program.

Liability

A Program may be concerned about potential liability if it permits a person known to have a criminal record or a history of violent or abusive behavior to participate as an athlete. Conversely, a Program may be concerned about liability if it denies such a person the opportunity to participate. If a Program develops and follows its athletes with criminal histories and violent/abusive behaviors policy, makes a reasonable effort to protect the athletes, volunteers and staff members and documents the steps consistently for all athletes, the Program will reduce its potential liability for whatever action the Program takes.

If a Program thoroughly reviews the situation, determines that the athlete can participate and implements one of the options outlined above, then the Program will be able to better demonstrate that it has taken appropriate and reasonable precautions to protect the health, safety and rights of all who participate in Special Olympics.

Conversely, a Program is not obligated by law to permit a potential athlete with a criminal record or a history of violent or abusive behavior to participate. If a Program conducts the type of review suggested above and concludes that the athlete should not participate, the Program will be acting prudently within its rights as a Special Olympics Program. While an athlete or his/her family may be unhappy with the decision, or may threaten legal action, the Program should have a strong defense for its decision.