

# WESTERN RESERVE ROWING ASSOCIATION (WRRRA)

## ATHLETE SAFETY POLICY

### TABLE OF CONTENTS

I.	INTRODUCTION .....	2
II.	PROHIBITED CONDUCT .....	2
	A. Bullying.....	3
	B. Harassment .....	3
	C. Emotional Misconduct .....	3
	D. Hazing .....	4
	E. Physical Misconduct .....	4
	F. Sexual Misconduct .....	4
III.	TRAINING AND EDUCATION .....	5
IV.	BACKGROUND SCREENING .....	5
	A. Disclosure Requirements Before and During Service to WRRRA ..	5
	B. Criminal Background Checks .....	6
	1. Process .....	6
	2. Potentially Disqualifying Information .....	6
	3. Background Check Results .....	7
	4. Frequency of Criminal Background Checks .....	7
	5. Other Potentially Disqualifying Factors .....	7
V.	ATHLETE PROTECTION AND REPORTING POLICY .....	8
	A. Reporting Policy .....	8
	B. Reporting Procedures .....	8
	C. Whistleblower Protection .....	8
	D. Bad-Faith Allegations .....	9
VI.	INVESTIGATION AND ENFORCEMENT .....	9
VII.	APPEAL .....	10

## **I. INTRODUCTION**

Western Reserve Rowing Association (hereinafter referred to as "WRRRA") is an adult rowing club which offers different programming options for members. In offering these programs WRRRA involves not only adult rowers but also a limited number of youth (minors) primarily in the role of coxswain or coach. WRRRA is committed to ensuring the safety of its members, employees and independent contractors. Accordingly, in conjunction with USRowing, WRRRA has adopted the following policies, which are meant as a guide for activities involving WRRRA employees and independent contractors. This information is also available for members. This policy is developed in 2015 so during the first year full compliance will not be fully implemented until September 2015. After this initial year the policy will be fully implemented

## **II. PROHIBITED CONDUCT**

WRRRA employees and independent contractors shall refrain from six types of misconduct identified and addressed herein. Those areas include: (1) Bullying; (2) Harassment; (3) Hazing; (4) Emotional misconduct; (5) Physical misconduct; and (6) Sexual misconduct, including child sexual abuse.

Sections II(A)-(C) below are directed to purely verbal conduct—bullying, harassment, and emotional misconduct, respectively. To be considered a violation of the policies and procedures contained in this policy, purely verbal conduct must be considered extreme and outrageous when judged by the objective standard of a reasonable person. "Extreme and outrageous" conduct is conduct that surpasses all possible bounds of decency, and is regarded as atrocious and utterly intolerable in a civilized community. Such conduct must also either intentionally or recklessly cause severe emotional distress to the victim. Moreover, as required in each Section, bullying, harassment, and emotional misconduct all require a *pattern* of verbal conduct. As such, more than a single offensive comment or statement is required to constitute a violation under those Sections.

Purely verbal conduct which does *not* rise to the level of a violation is conduct that a reasonable person would consider to be mere insults, indignities, harmless threats, annoyances, petty oppression, or other trivialities. The policy is not intended to extend to every occasion where

someone's feelings are hurt. The policy is not intended to make a coach liable for expressing an unflattering opinion, and is not intended to close off every safety valve through which irascible tempers may blow off relatively harmless steam.

The nature of a coach-athlete relationship necessarily requires a coach to inspire, motivate, and to indeed be expected and required to be hardened to a certain amount of rough language, and to occasional verbal acts that are definitely inconsiderate and unkind.

### **A. Bullying**

Bullying is 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. Bullying also includes any act or conduct defined as bullying under federal or Ohio law.

Bullying does *not* include group or team behaviors that (a) are meant to establish normative team behaviors, or (b) promote team cohesion. For example, bullying does not include verbal admonitions to encourage team members to train harder and to push through a difficult training regimen.

### **B. Harassment**

Harassment includes a repeated pattern of physical and/or non-physical behaviors that (a) are intended to cause fear, humiliation or annoyance, (b) offend or degrade, (c) create a hostile environment or (d) reflect discriminatory bias in an attempt 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. Harassment also includes any act or conduct defined as harassment under federal or Ohio law.

### **C. Emotional Misconduct**

Emotional misconduct is a pattern of deliberate, non-contact behavior that has the potential to cause emotional or psychological harm to an athlete. Non-contact behaviors can include:

- verbal acts;
- physical acts; or
- acts that deny attention or support.

Emotional misconduct also includes any act or conduct defined as emotional abuse or misconduct under federal or Ohio law (e.g. child abuse, child neglect).

Emotional misconduct does *not* include professionally-accepted coaching methods of skill enhancement, physical conditioning, team building, discipline, or improving athletic performance.

#### **D. Hazing**

Hazing includes 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. Hazing also includes any act or conduct defined as hazing under federal or Ohio law.

Hazing does *not* include group or team activities that (a) are meant to establish normative team behaviors or (b) promote team cohesion.

#### **E. Physical Misconduct**

Physical misconduct includes contact or non-contact conduct that results in, or reasonably threatens to, cause physical harm to an athlete or other rowing participants. Physical misconduct also includes any act or conduct defined as physical abuse or misconduct under federal or Ohio law (e.g. child abuse, child neglect, assault).

Physical misconduct does *not* include professionally-accepted coaching methods of skill enhancement, physical conditioning, team building, appropriate discipline, or improving athlete performance.

#### **F. Sexual Misconduct**

Sexual misconduct includes any touching or non-touching sexual interaction that is (a) nonconsensual or forced, (b) coerced or manipulated, or (c) perpetrated in an aggressive, harassing, exploitative or threatening manner. This definition encompasses any sexual interaction between an athlete and an individual with evaluative, direct, or indirect authority—regardless whether the athlete is a legal adult. An imbalance of power is always assumed between an employee or volunteer with authority or influence over an athlete. Such relationships involve an imbalance of power and are likely to impair judgment or be exploitative. Sexual misconduct also includes any act or conduct defined as sexual abuse or misconduct under federal or Ohio law (e.g. sexual abuse, sexual exploitation, rape).

Child sexual abuse includes any sexual activity with a minor, which is defined as a person under the age of 18. This includes sexual contact with a minor that is accomplished by “consent,” deception, manipulation, force, or threat of force. Child sexual abuse also includes any act or conduct defined as child sexual abuse under federal or Ohio law.

### **III. TRAINING AND EDUCATION**

WRRRA employees and independent contractors are required to report and WRRRA members are encouraged to report misconduct relating to the six above discussed areas. Recognizing some forms of misconduct requires training. For example, child sexual abusers usually engage in a practice called “grooming” in order to seduce victims. Using a combination of attention, affection, and gifts, offenders select a child, win the child’s trust (and the trust of the child’s parent or guardian), manipulate the child into sexual activity, and keep the child from disclosing abuse.

Accordingly, WRRRA employees and independent contractors involved in club-sponsored programs involving youth must complete awareness training before performing services on behalf of WRRRA. The awareness training involves successful completion of the online training module and corresponding tests at: <http://training.teamusa.org/store/details/1>. WRRRA members who are interested may also choose to take the free course. The site requires registration; when creating an account, select “USA Rowing” from the drop down menu when prompted to select an organization and enter the appropriate membership number.

Those employees and independent contractors who are required to take awareness training must re-take athlete awareness training every two (2) years, or no more than 30 day(s) before they have contact with athletes.

### **IV. BACKGROUND SCREENING**

#### **A. Disclosure Requirements Before and During Service to WRRRA**

Each potential WRRRA employee or independent contractor involved in a club-sponsored program involving youth has an affirmative duty to disclose his/her criminal history. Failing to disclose or intentionally misrepresenting an arrest plea or conviction history is grounds for employment, volunteer, and/or membership revocation or restriction, regardless of when the offense is discovered.

If, during the course of participation in a WRRRA program involving youth, an employee or independent contractor is accused, arrested, indicted or

convicted of a criminal offense against a child, it is the duty and responsibility of the employee or independent contractor to disclose in writing such information immediately to the WRRRA Board of Directors.

## **B. Criminal Background Checks**

### **1. Process**

Notwithstanding the full disclosure requirement above, all employees and independent contractors who will be regularly involved in WRRRA programs involving youth will be asked to undergo a criminal background check that complies with the Fair Credit Reporting Act before providing services for WRRRA. Through this criminal background check, WRRRA will utilize reasonable efforts to ascertain past criminal history of any potential employee or volunteer.

An applicant must submit a Criminal Background Check Consent and Waiver Release to WRRRA and be cleared before (s)he may perform services for WRRRA. On receipt of both forms, WRRRA will request that its vendor perform the criminal background check. As part of its criminal background check, the vendor will, at a minimum and without limitation:

- (1) Perform a national search of state criminal repositories;
- (2) Perform a search of state sexual offender registries; and
- (3) Verify a person's identification against his or her social security number or other personal identifier.

### **2. Potentially Disqualifying Information**

#### *a. Criminal History*

WRRRA will use the criminal background check to gather information about a potential employee or volunteer's prior criminal history. The information revealed by the criminal background check may disqualify that individual from providing any services to WRRRA. Information that could disqualify an individual includes, but is not limited to, arrests, pleas of no contest, and criminal convictions.

#### *b. Pending Court Cases*

No decision will be made on an individual's eligibility for work as an employee or independent contractor if (s)he has a pending court case for any of the potentially disqualifying offenses until the pending case concludes, either by disposition, dismissal or judgment. If, however, during the case's pendency, WRRRA undertakes an independent investigation, any

determination from the independent investigation may be used to disqualify the individual.

### **3. Background Check Results**

The criminal background check report will return a “green light” or “red light” score. A green light score means that the background check vendor located no records that would disqualify the applicant. A green light score, however, is not a certification of safety or permission to bypass/ignore other screening efforts. Other disqualifying factors may exist, and can be revealed through an interview, reference checks, or other relevant means.

A red light finding means the criminal background check revealed criminal records which suggest the individual is not suitable to provide services, with or without compensation, to WRRRA. Individuals who are subject to disqualification under a “red light” finding may challenge the accuracy of the reported information by either (1) appealing to the WRRRA Board of Directors or (2) appealing to the criminal background check vendor.

### **4. Frequency of Criminal Background Checks**

Criminal background checks will be refreshed as required by law and/or at the discretion of the WRRRA Board of Directors for employees and independent contractors who are 18 years of age or older and perform services for WRRRA programs that involve youth.

### **5. Other Potentially Disqualifying Factors**

Even if an individual passes a criminal background check, other factors may warrant disqualification. An individual may be disqualified and prohibited from providing services for WRRRA if the individual has:

- Been held liable for civil penalties or damages involving sexual or physical abuse of a minor;
- Been subject to any court order involving any sexual or physical abuse of a minor, including but not limited to domestic order or protection;
- A history with another organization (employment, volunteer, etc.) of complaints of sexual or physical abuse of minors; or
- Resigned, been terminated or been asked to resign from a position - paid or unpaid - due to complaint(s) of sexual or physical abuse of minors.

## **V. ATHLETE PROTECTION AND REPORTING POLICY**

### **A. Reporting Policy**

In the event that a WRRRA employee or independent contractor witnesses a violation of these policies and procedures while it is occurring, and the WRRRA employee or independent contractor reasonably believes (s)he can intervene on behalf of the victim during the incident without endangering him- or herself, the WRRRA employee or independent contractor is required to intervene. Notwithstanding whether the WRRRA employee or independent contractor intervenes, (s)he has a separate duty to immediately report the incident to a member of the WRRRA Board of Directors.

If a WRRRA employee or independent contractor knows of or suspects conduct that violates these policies and procedures, (s)he must immediately report such beliefs or suspicions to a member of the WRRRA Board of Directors. As a matter of policy, WRRRA does not investigate suspicions or allegations of child physical or sexual abuse or attempt to evaluate the credibility or validity of such allegations as a condition for reporting to the appropriate law enforcement authorities. As such, the WRRRA employee or independent contractor reporting such allegations should not attempt evaluate the credibility or validity of child physical or sexual abuse allegations as a condition to reporting to WRRRA.

### **B. Reporting Procedures**

Any WRRRA employee, independent contractor or member can report a concern to any member of the WRRRA Board of Directors ) by filling out the Misconduct Reporting Form available on WRRRA s website. Reporting individuals should provide at a minimum: (1) his/her name; (2) the type of misconduct alleged and the name(s) of the individual(s) alleged to have committed the misconduct; (3) the alleged victim(s) and (4) the surrounding circumstances (e.g. date, time, location, and context).

WRRRA recognizes it can be difficult to report an allegation of misconduct. Anonymous reports may be made in extreme circumstances although they are not preferred due to the obvious difficulty of following up with the reporting individual. To the extent permitted by law, and as appropriate, WRRRA will keep confidential the reporting individual's name on request, not make public the names of potential victims, the accused perpetrator, or the people who made a report of child physical and sexual abuse to the authorities.

### **C. Whistleblower Protection**

Regardless of the outcome, WRRRA will support the reporting individual and his or her right to express concerns in good faith. WRRRA will not encourage, allow, or tolerate attempts from any individual to retaliate, punish, or in any way harm any individual(s) who reports a concern in good faith. Such actions against a complainant will be considered a violation of this policy and constitute grounds for disciplinary action.

#### **D. Bad-Faith Allegations**

A report of abuse, misconduct, or policy violations that is malicious, frivolous, or made in bad faith is prohibited. Such reports will be considered a violation of this policy and constitute grounds for disciplinary action. Depending on the nature of the allegation, a person making a malicious, frivolous, or bad-faith report may also be separately subject to civil or criminal proceedings.

### **VI. INVESTIGATION AND ENFORCEMENT**

WRRRA utilizes this Investigation and Enforcement procedure to resolve those allegations that are governed by the Ted Stevens Act. A hearing under the Ted Stevens Act will not necessarily affect WRRRA's ability to immediately suspend or terminate an accused individual. As appropriate, and at its discretion, WRRRA may institute a formal investigation and hearing procedure to address serious allegations of misconduct (e.g., physical and sexual misconduct). However, WRRRA anticipates that an investigation and hearing will be undertaken to address only the most serious allegations and patterns of behavior that warrant significant sanctions. A hearing, with at least five (5) days' written notice, and an opportunity to be heard, will be granted in any case in which any sanction of a suspension of more than seven (7) days is being considered.

The WRRRA Board of Directors has the discretion to impose sanctions on the perpetrating individual if it finds, based on a preponderance of evidence, that the individual committed emotional, physical, or sexual misconduct. Sanctions may range from a warning and reprimand to suspension from involvement with WRRRA for a period of time. Suspensions from involvement with WRRRA may be temporary or permanent. The most severe sanction possible to impose is permanent suspension from involvement and expulsion from WRRRA. Written notice of the sanction shall be delivered to the perpetrating individual before the sanction takes effect.

## **VII. APPEAL**

If the individual disagrees with the finding or discipline imposed by the WRRRA Board of Directors, (s)he may file an appeal with an independent arbitrator within 30 days of receipt of written notice of the WRRRA finding. The American Arbitration Association ("AAA") rules in effect as of the date of the finding or discipline will apply to any appeal. On appeal, the arbitrator will address the merits of WRRRA's decision *de novo*, and not through the process that was utilized. A decision rendered by the arbitrator will be final and binding on all parties.