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DATE: August 13, 2010
TO: Valued ESIX Clients
RE: Abuse & Molestation Issues and Background Screening

As you are probably aware, there have been numerous media reports over the past several months highlighting the abuse and molestation issues confronting amateur sports associations. Recent articles published by Fox Sports and USA Today regarding the USA Swimming situation provide excellent reminders for why it is imperative that appropriate attention be given to this issue:

USA Today: Abuse allegations against USA coaches rock the swim world
www.usatoday.com/sports/olympics/2010-08-11-allegations-rock-swim-world_N.htm

Fox Sports: Woman sues California coach, USA Swimming
<http://msn.foxsports.com/other/story/USA-Swimming-sued-in-alleged-sexual-abuse-case-081110>

Most of you have been working with us for several years to build strong measures to address these issues from a risk management and insurance standpoint. Here are some points to consider:

- National Governing Bodies and other amateur sports associations should focus on better protection (i.e. comprehensive background screening and disqualification standards), reporting (i.e. ways for athletes to report abuse & molestation incidents) and response procedures (i.e. how to handle situations once reported to the NGB/Association). Formal policies and procedures should be established.
- Having a code of conduct and selective background screening is not enough. Child-protection policies (i.e. background screening) that are limited in scope to staff and volunteers traveling on national team trips are not adequate. Background checks should be performed on all coaches, staff and volunteers who are involved with minors. In particular, coaches who are certified by the association.
- Annual background checks have become the minimum standard, with some organizations having implemented biennial background screening for its coaches and membership. The State of Florida recently passed legislation mandating annual sex offender registry checks for coaches involved with minors. We would expect similar legislation to be passed in other states.
- Background checks may not uncover behaviors such as bullying and sexual harassment or even sexual abuse unless there was a conviction, and banning only based upon convictions may be problematic. Disqualification standards should be reviewed closely.
- Select your background screening company carefully. Not all background screening firms are created equal. Some do not conduct as comprehensive of national, state and local searches. Quality does matter, and you get what you pay for.
- Avoid getting involved in an appeals process whereby exceptions are made to disqualification standards. Consistency is the key. Allowing for exceptions can lead to discrimination claims. The individual involved should deal directly with the background screening firm if they feel any information discovered during the background screening process is inaccurate.

Please let us know if you have any questions or would like to discuss these issues in further detail.

This document provides general information concerning the abuse & molestation issues and background screening. ESIX is not engaged in rendering any legal opinions or compliance services with respect to these issues. This document should not be used as a substitute for legal advice from a company qualified to provide such services.