



Sports Governance and National Athletes

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Athlete, Obstacle Sports, Throwing and Padel

Topics and Flow



(1) Sports
Law/ Purpose

(2) Sports
Governance

(3) National
Athletes

YOU are in the news ...



Tragedy of the athlete

Pride is an independent, me-oriented spirit. It makes people arrogant, rude and hard to get along with. When our heart is prideful, we don't give God the credit and we mistreat people, looking down on them and thinking we deserve what we have.
- Joyce Meyer

THE GAME OF MY LIFE



By BILL VELASCO

very few of us discover what really happened. The general public is left scratching its collective head at the results. This is why this happens.

They act like they own the athletes. The problem with many national sports associations is that they treat the athletes like chattel. They demand that a player suit up, even when the conditions are unfavorable to the athlete. At this level, athletes should get paid, because it is an endangerment to their future. It's a virtual sword of Damocles. They deserve to get compensated.

Furthermore, some officials have the audacity to insist that an athlete play even when he is injured or recovering from injury. The national team is a short-term gig; why risk long-term damage? You're just feeding somebody's ego. Also, you can't have a team without players. So when a sponsor wants a billboard or print ad with the team, who gets paid? In many cases, not the players.

It's always a rush job. In this age where there are no more full-time national teams, national teams are formed within mere weeks of major competitions. It happens all over the world. Unfortunately, with the exception of the largest events which are usually scheduled during the international summer, some events conflict with the calendars of existing professional leagues. Thus, teams only come together during their vacation time, if they even have one. This is why NBA players have been begging off from representing the US. They have an exhausting schedule as it is. If their teams make the playoffs, they are basically playing basketball non-stop for nine months of the year. Their bodies need a break. But many other countries do not have the luxury of an overabundance of players.

Too many gatekeepers. Have you ever been annoyed about how self-important security guards of exclusive villages are? They act like they own the entire subdivision, when they are only there to man the entrances and exits. And they can keep you out for the most illogical and meaningless reason. Tragically, this is the same situation with national sports associations. There are middling officials, coaches, and friends of the above who have inexplicable influence on the selection of athletes for the national team. The saddest part is that you never know who these people are. You're being manipulated by ghosts.

Athlete equals fall guy. If an athlete is unavailable for the national team, or opts not to play, he or she is vilified, internally and even publicly. But nobody ever finds out why. Many times, it's because they were never offered a fair deal, or were left hanging when a deal was imminent. You would think that they are usually offered the best possible deal. It rarely happens. Yet, when they do not agree to those one-sided terms, they are crucified.

The system could be much better. But in this lifetime, we don't see that getting any better. At the end of the day, the athlete's main fulfillment is having dedicated a portion of his or her career to a great cause: wearing the flag.

Issues raised:

- Selection
- Play when injured
- Compensation
- Proceeds of sponsorships
- Schedule of competitions
- Athletes as chattels and fall guys
- Influence of "Ghosts"



Sports Law and Purpose of Sports

What is the *purpose of Sports*?

Is it just about making the most number of points, clocking the fastest time, carrying the heaviest load, knocking down an opponent or showing the best form?

Sports Law

Purpose

“Ultimately, the role of sports law is to ensure **safety, equality, fairness and integrity** in athletic competition **on and off the playing field.**”

Sports Law, Rider University

Aspects

- Constitution
- Contracts
- Agency
- Torts
- Crimes
- Labor
- Trademark
- Tax
- Anti-Trust
- Discrimination

Legal Dictionary, The Free Dictionary by Farlex



Noble Purposes of Sports

Under the 1987 Constitution

ARTICLE II. Declaration of Principles and State Policies

Principles

SECTION 15. The State shall protect and promote the **right to health** of the people and instill **health consciousness** among them.

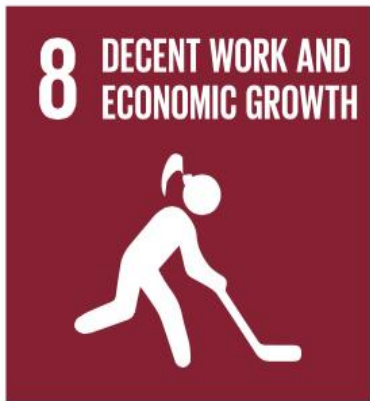
Section 17. The State shall give priority to education, science and technology, arts, culture, and **sports** to foster **patriotism and nationalism, accelerate social progress,** and promote **total human liberation and development.**

ARTICLE XIV. Education, Science and Technology, Arts, Culture, and Sports

Sports

Section 19. (1) The State shall promote **physical education and encourage sports programs, league competitions, and amateur sports,** including training for **international competitions,** to foster **self-discipline, teamwork, and excellence for the development of a healthy and alert citizenry.**

(2) **All educational institutions** shall undertake **regular sports activities** throughout the country **in cooperation with athletic clubs and other sectors.**





Sports Governance

Government Agencies on Sports












Overview of Administrative Agencies

Investigate- Protect- Compel	Administrative/ Executive
Quasi- Legislative	Quasi-Judicial
Police Power/ Regulate	Others/ Corporate

Purpose

- Offers gratuities, grants or privileges
- Performs specific governmental functions
- Undertakes public service
- Regulates businesses affected with public interest
- Exercises police power to regulate private businesses
- Resolves controversies

Aspects	PSC 	GAB 	DEPED 	CHED 	NAS 	BARMM 	LGUs
Charter	RA 6847 (1990)	EO 120 (1948)	RA 9155 (2001)	RA 7722 (1994)	RA 11470 (2020)	RA 11054 (2018)	RA 7160 (1991)
Nature	Governmental Regulatory National Agency	Regulatory and Supervisory Agency	National Government Agency	Administrative Agency	Government School	Regional Government	Political and Territorial Subdivisions
Relations	Attached to OP	Under OP	Control of OP	Attached to OP Independent of DEPED	Attached to DEPED	Supervision of OP	Supervision of OP
Focus/ Mandate	All Amateur Sports	Professional Sports (Listed)	Basic Education (Public)	Higher Education (Public-Private)	Secondary Education	Regional Governance	Local Governance
Sports- Related Functions	<ul style="list-style-type: none"> Encourages and sustains sports development nationwide Supports National Athletes Maintains link Helps enable Olympic Games Establishes sports facilities Gives incentives and benefits Encourages local/school events Manages Phl Sports Training Ctr 	<ul style="list-style-type: none"> Enforces laws and regulations Promotes fair conduct of games Grants licenses to professional sports practitioners Issues permits for professional games Adjudicates violations 	<ul style="list-style-type: none"> Pursues school sports and physical fitness as part of basic educ. Holds <i>Palarong Pambansa</i> Resolves complaints affecting student-athletes 	<ul style="list-style-type: none"> Sets minimum standards Rationalizes programs Reviews charters Resolves complaints affecting student-athletes 	<ul style="list-style-type: none"> Implements a secondary education program, integrated with a special curriculum on sports Establishes world-class facilities Provides full scholarship Coordinates with PSC 	<ul style="list-style-type: none"> Promotes general welfare Recognizes vital role of youth Promotes mental and physical fitness through sports Develops comprehensive PE program Organizes sports events Creates Sports Commission 	<ul style="list-style-type: none"> Promote general welfare Exercise devolved powers (i.e., sports center) Hold sports events Apportion SEF for sports Enact ordinances Levy local sports-for-all taxes

Philippine Olympic Committee (POC)

- Serves as **National Olympic Committee** of the Philippines recognized by the IOC and Philippine Law (RAs 10699 and 6847), and registered with the SEC as a **non-stock** corporation
 - Develops, promotes and protects the **Olympic Movement** in accordance with the **Olympic Charter** (IOC Charter)
 - Has primary responsibility for activities pertaining to the country's participation in the OG, AG, SEAG and other **international athletic competitions** in accordance respectively with the rules and regulations of the IOC, the OCA, the SEAGF and other international sports bodies (RA 6847)
 - Recognizes **National Athletes and Coaches** (RA 10699)
- Under its AIBL:
- Encourages the development of **high performance sports** as well as **sport for all**
 - Organizes, together with NSAs, the **preparation and selection of athletes**
 - Exercises **sole authority for the representation of the Philippines** at the OG, YOG, AG, SEAG, as well as other events held under the patronage of the IOC and the OCA
 - Recognizes as members **one NSA** for each sport and that NSA must be affiliated to a relevant IF

29 The national federations

To be recognised by an NOC and accepted as a member of such NOC, a national federation must exercise a specific, real and on-going sports activity, be affiliated to an IF recognised by the IOC and be governed by and comply in all aspects with both the Olympic Charter and the rules of its IF.

Under the **POC AIBL**, an NSA:

- Is the **National Governing Body** of a Sport
- Develops sports **nationwide**
- Selects the **athletes, trainers, coaches** and other officials for its **national teams**

3 Types: POC accepts an NSA either as Regular, Associate or Recognized Member

Under **RA 6847**, an NSA:

- Organized for a **sport in the Philippines** and/or affiliated with an **IF recognized by the IOC**
- Is **autonomous** and shall have **exclusive technical control** over the promotion and development of a particular sport
- Shall have its **AIBL** which determines the organization and membership
- Conducts **competitions**
- Selects the **athletes, coaches and other officials** for its **national team**
- Adopts, in coordination with the POC, a **training program** for the development of its athletes



Categories of Athletes



Categories of Athletes

National Athletes

Student-Athletes

Professional Athletes

Recreational Athletes

Club Athletes

Athletes w/o Disabilities

Adaptive-Athletes

Youth/ Kids

Masters/ Seniors

LGBTQIA+

National, Professional & Student-Athletes

Comparing and Contrasting



Aspects	National Athletes	Professional Athletes	Student-Athletes
Definition <div>4</div>	<ul style="list-style-type: none"> ○ Athletes who compete for and represent the country ○ “Filipino citizens, members of the national training pool, recognized and accredited by the POC and the PSC, including athletes with disabilities who are recognized and accredited by the NPC PHIL and the PSC and who have represented the country in international sports competitions.” (RA 10699) 	Athletes who: <ul style="list-style-type: none"> ○ “play for pay” for a “sum of money as remuneration either in the form of salary or prize of winning” ○ “within the context of a competition” ○ “in the practice of their sports profession” (PSC-GAB-DOH Joint Circular 2020-0001) 	Students who: <ul style="list-style-type: none"> ○ are currently enrolled in any school ○ are members of any of the school’s athletic teams or programs ○ represent or has intentions of representing the school in an inter-school athletic program or competition.” (RA 10676)
Status	<ul style="list-style-type: none"> ○ Beneficiaries since not under NSA control (means & ends) ○ Have fundamental rights like right to consent 	Depending on circumstances, Employees, Independent Contractors or Service Providers	<ul style="list-style-type: none"> ○ Students in Public or Private Educational Institutions ○ 1st & foremost, Students

Aspects	National Athletes	Professional Athletes	Student-Athletes
Nature	Amateurs	Professionals	Amateurs
Organization	Primary: NSAs 2 ^{ndary} : POC/IOC & PPC/IPC	Primary: Teams/ Companies 2 ^{ndary} : Leagues	Primary: Schools 2 ^{ndary} : Athletic Associations
Government	PSC	GAB	CHED/ DepEd
Benefits	Allowances and incentives from PSC, NSAs based on contract/ generosity and Private Companies	<ul style="list-style-type: none"> ○ Per Contract ○ Depending on nature: <ul style="list-style-type: none"> ○ Salary ○ Allowance ○ Incentives ○ League Policy 	<ul style="list-style-type: none"> ○ School Fees ○ Uniforms and Supplies ○ Monthly Living Allowance ○ Medical and Insurance ○ Similar benefits (not amount to commercialization)
Requirements	<ul style="list-style-type: none"> ○ Filipino citizen ○ PSC-recognized ○ POC-accredited NSA ○ Compete in recognized International Events 	Based on Contract/ League policy/ Selection Draft: <ul style="list-style-type: none"> ○ Skills ○ Age ○ Education 	<ul style="list-style-type: none"> ○ Currently enrolled in full-time curriculum ○ In good standing ○ Eligible to represent school ○ Residency



13 questions

National Athletes' Rights and Responsibilities

**Since *no law*, most of answers will be
*It Depends.***

1. NSA – Athlete's Agreement (Law between the parties) [*Template Athlete's Agreement*]
2. IF Rules
3. NSA Rules and Practices
4. Olympic Charter/ IOC Declarations
5. POC Policies
6. Relevant Laws and PSC Policies

Athletes' Rights and Responsibilities Declaration

developed by athletes for athletes, through a worldwide consultation process, reflecting the views of athletes.

Athletes and their interests are integral to the Olympic Movement. This Declaration outlines a common set of aspirational rights and responsibilities for athletes within the Olympic Movement and within the jurisdiction of its members. It is inspired by the Universal Declaration of Human Rights and other internationally recognised human rights standards, principles and treaties. Its objective is to guide the Olympic Movement's actions.

All members of the Olympic Movement, particularly the International Olympic Committee, the International Sports Federations and the National Olympic Committees, will strive to promote respect for these rights and responsibilities. They are encouraged to develop mechanisms for effective remedies related to these rights and responsibilities, and athletes are encouraged to make use of these mechanisms.

I. Athletes' Rights

This Declaration aspires to promote the ability and opportunity of athletes to:

1. Practise sport and compete without being subject to discrimination on the basis of race, colour, religion, age, sex, sexual orientation, disability, language, political or other opinion, national or social origin, property, birth or other immutable status.
2. Be part of a transparent, fair and clean sporting environment, particularly one that fights against doping and competition manipulation, and provides for transparent judging/refereeing, selection and qualification processes, and appropriate competition schedules, including training schedules at such competitions.
3. Access general information on athlete and competition-related matters in a timely and clear manner.
4. Access education on sports-related matters as well as to work or study while actively training and competing, should the athlete choose to do so and where practicable.
5. Leverage opportunities to generate income in relation to their sporting career, name and likeness, while recognising the intellectual property or other rights, rules of the event and of sports organisations as well as the Olympic Charter.
6. Fair and equal gender representation.
7. The protection of mental and physical health, including a safe competition and training environment and protection from abuse and harassment.
8. Elected athlete representation within sporting organisations of the Olympic Movement.
9. Report unethical behaviour without fear of retaliation.
10. Privacy, including protection of personal information.
11. Freedom of expression.
12. Due process, including the right to a fair hearing within a reasonable time by an independent and impartial panel, the right to request a public hearing and the right to an effective remedy.

II. Athletes' Responsibilities

This Declaration encourages athletes to:

1. Uphold the Olympic values and adhere to the Fundamental Principles of Olympism.
2. Respect the integrity of sport and compete as a clean athlete, in particular by not doping and not manipulating competitions.
3. Act in accordance with the IOC Code of Ethics and be encouraged to report unethical behaviour, including instances of doping, competition manipulation, prohibited discrimination and abuse and harassment.
4. Comply with applicable national laws, and the rules of the qualification processes and competitions, of the sport, and of the relevant sporting organisation, as well as the Olympic Charter.
5. Respect the rights and well-being of, and not discriminate against, other athletes, their entourage, volunteers and all others within the sporting environment, and refrain from political demonstration in competitions, competition venues and ceremonies.
6. Respect the solidarity principle of the Olympic Movement, which allows assistance and support to be provided among athletes and members of the Olympic Movement.
7. Act as a role model, including by promoting clean sport.
8. Inform themselves and be aware of their responsibilities.
9. Participate in hearings when requested to do so and provide truthful testimony in such proceedings.
10. Participate and vote in athlete representatives' elections.

10 National Athlete's Rights

Under the Author's Proposed NSA-Athletes' Agreement



1. Right to **consent**:
 - a. inclusion and stay in the **National Team**
 - b. any matter affecting the Athlete's physical, social, psychological and mental **well-being**
2. Right to protection of **whole-of-life well-being**
3. Right to **privacy**
4. Right to **representation**
5. Right against **harassment and discrimination**
6. Right to **due process**
7. Right to **expression**
8. Right to choose **Personal Performance Gear**
9. Right to **information and continuing education**
10. Right to **file complaints and grievances**



Athletes' Rights and Responsibilities Declaration

developed by athletes for athletes, through a worldwide consultation process, reflecting the views of athletes.



What is an Athletes' Agreement?

Generally speaking, athletes' agreements are contracts that govern the legal relationship between athletes and the organisation they are a part or a member of. Their content and nature vary depending on multiple factors such as, for instance, whether the agreement is with an organisation operating at national or international level, and whether it is with a club, team or other organisation.

1. **Context and objectives:** Clearly state the context and define the relationship that the Athletes' Agreement applies to, including its scope (e.g. activities concerned), duration and parties involved.
2. **Rights and obligations of each party:** Set out the terms and conditions that apply to each party, which may include different types of commitments and entitlements such as:
 - For both parties: abiding by a mutually agreed-upon Code of Conduct or set of ethical principles, reflecting clean sport and good governance.
 - For the athlete: Committing to competing as a clean athlete and with integrity, and otherwise taking part in the Sports Organisation's events and activities.
 - For the Sports Organisations, providing financial and/or material support and protection of physical and psychological health.
3. **Grievance mechanism and issue resolution:** Present a clear mechanism for each party to express grievances or complaints, should such party feel that its rights under the agreement have not been respected, to identify and address issues early before they escalate.
4. **Final provisions:** For clarity and security, an Athletes' Agreement should define its duration and the circumstances in which a party may terminate the agreement before its term, the law it is governed by, and the courts or arbitration institution competent to settle any dispute between the Parties.
5. **Acceptance:** An acceptance section where the athlete (and, for minors, his/her parents/legal guardian(s)) can confirm by a signature, or other acceptable evidence of acceptance, that he/she has read and understood the Athletes' Agreement and accepts its terms.

Sports Law-for-All

No. 6

Atty. Alberto C. Agra

April 30, 2021



NATIONAL FEDERATION- ATHLETE'S AGREEMENT

- Defining Rights and Responsibilities -

20 Questions and Corresponding Sections

No.	Questions	Sections
1	Are Athletes of the National Team employees of the NFs/NSAs? Or are they beneficiaries?	Recitals (e), II.1, III.A.2 and IX
2	Can an Athlete be compelled by the NF/NSA to be vaccinated against COVID-19?	III.D.7
3	What is the purpose of this Athlete's Agreement?	II
4	What are the international declarations and policies on the rights and responsibilities of Athletes?	Recitals (d) and I.5
5	Who is an Athlete? What is an NF/NSA?	Recitals (a), (b) and (c), I.2 and 10
6	Can the Athlete leave the NF/NSA, i.e., pre-terminate the Athlete's Agreement, at any time?	IX.1
7	Can the NF/NSA remove the Athlete from the National Team, withhold his/her benefits and/or not send him/her in sanctioned competitions?	XI.2-4 and III.C.5
8	Must an NF/NSA adopt and implement a safe sport policy?	III.D.8
9	What are the resources the NF/NSA must provide the Athlete?	III.E.12-18
10	What is a Training Plan? Must the Athlete be consulted about the formulation of the Training Plan?	I.13 and III.C.6
11	Can an Athlete obtain sponsorships from non-NF/NSA-sponsors? Can the Athlete use the NF-logo?	III.D.11 and IV.C.18
12	How are disputes between the NF/NSA and Athletes resolved?	XII
13	Can the Athlete join another organization and represent another country?	VIII
14	What are covered under <i>Competition Expenses</i> ?	I.4
15	Is the responsibility of the NF/NSA confined to developing the physical attributes of the Athlete?	III.A.1
16	What is <i>Clean Living</i> ? Can an Athlete engage in <i>Hazardous Activities</i> ?	IV.B.10-11
17	Who chooses the <i>Personal Performance Gear</i> of an Athlete – the Athlete or the NF/NSA?	III.D.10
18	What is the scope of the <i>Right to Consent</i> of an Athlete? What are the other basic rights of an Athlete?	III.D.7
19	What does it mean to be an <i>Ambassador of the Sport</i> ? Must the Athlete sign a Code of Conduct? What is <i>Sportpersonship</i> ? How should an Athlete treat others?	IV.1, 2 and 4
20	How many years is the effectivity of the Athlete's Agreement?	VII.1



(1) Are National Athletes employees of their NSAs? Government? PSC? If not, how do we classify them?



Status

NSA Employee if ...

1. Selection and engagement/ hiring
2. Payment of wages
3. Exercise of power of dismissal
4. Control over means/ methods/ conduct

Public Official/ Employee if ...

1. Elected or appointed
2. Authority conferred by law
3. Performs public/ sovereign functions
4. Defined relationship



National Athletes are ...

Beneficiaries

Stakeholders

Principals

Flag-Bearers

Heroes

NSAs' Why

They are **not** ...

- Commodities
- Chattels
- Assets
- Properties
- Objects
- Tools
- Pawns



(2) What is the overall obligation of an NSA to its National Athletes?



Overall Obligation *in Agra Template*

- **NSA as Duty-bearer**
- **Athlete's Well-Being.** Promote the **whole-of-life well-being and fitness** of the members of the National Team, the Athlete included.
- **Athlete as Beneficiary.** Exercise all that is necessary in order to **advance the interest of the Athlete** as a beneficiary of the NF in accordance with the terms and conditions of this Agreement.

Code of Conduct/ Ethics for reference/ sample



CODE OF CONDUCT

By signing this World Obstacle, the Fédération Internationale de Sports d'Obstacles (FISO) Code of Conduct I hereby agree:

- i. To act in the best interests of the global obstacle sports community at all times
- ii. To act with due diligence and professionalism in the discharge of my duties for and on behalf of my members.
- iii. To act in an honest, ethical and law abiding manner at all times
- iv. To abide by all relevant FISO rules, regulations and codes of conduct.
- v. To report any breaches of the law or FISO rules, regulations or codes of conduct to the relevant authority
- vi. Not to bring Obstacle Sports and related disciplines into disrepute
- vii. To conduct my business in as transparent a manner as possible while respecting personal and commercial confidences
- viii. To observe and adhere to the FISO General Statutes, Bye-Laws, Code of Ethics and all FISO policies and procedures adopted by the FISO Executive Committee and/or the FISO General Assembly.
- ix. To represent FISO, obstacle sports and related disciplines in a positive and supportive manner at all times.
- x. Not to commit or be responsible for and/or party to any form of discrimination or abuse including, without limitation, on the basis of race, sex, ethnic origin, religion, philosophical or political opinion or other grounds.

Signature:

Print Name:

On behalf of:
Organisation

Date:

PRINCIPALS

Each Party must, both in the carrying out of its **duties within FISO** as well as on a **day-to-day basis shall comply with the principles of:**

1. **Human dignity**
2. **Nondiscrimination, for whatever reason: race, gender, nationality, ethnic origin, religion, philosophical and political opinions, marital status or any other**
3. **Nonviolence, including abstaining from any kind of pressure and harassment, whether physical, mental, professional or sexual**
4. **Friendship, mutual aid and fair-play**
5. **Integrity**
6. **Priority to the interests of obstacle sports and FISO in relation to personal interests**
7. **Priority to the interests of sport and athletes in relation to financial interests**
8. **Protection of the environment**
9. **Political neutrality**
10. **FISO Constitution**
11. **Olympic Charter**
12. **International Olympic Committee Code of Ethics**

All parties shall, on **all occasions** and to the **best of their ability**, serve the **interests of obstacle racing and FISO**. They shall be **aware of their task** and their **personal responsibility** and **take all necessary action** to carry it out. They shall **refrain from any behaviour that may jeopardize racing** or the **reputation of FISO**.



(3) What are the standards in the selection of National Athletes? Conditions if they will play or not?



NSA Selection *in Agra Template*

- **National Team Composition.** Determine the **composition** (i.e., **number, qualifications, among other considerations**) of the members of the National Team, to which the Athlete may be/is qualified.
- **Selection Process.** Prescribe the **policy and manner**, and apply the same **fairly** and without favor or partiality, by which members of the National Team may be selected and declared **eligible**, such as through **qualifying races, performance** in Competitions, and other relevant **standards** and criteria.

- Objective (*not subjective*)
- Policy (*not arbitrary*)
- Transparency (*not hidden*)
- Fairness (*not discriminatory*)



(4) What are the benefits of National Athletes under the law? From their NSAs?



National Athlete's Incentives

Under RA 10699

Entitlements

1. Allowance (levels)
2. 20% Discount (hotel, restaurants, sports equipment, theaters)
3. Free Medical (and dental) Consultations in gov't hospitals
4. PhilHealth
5. Social Security Program
6. Priority in Housing NHA
7. Priority in Livelihood by gov't
8. Use of Living PSC Quarters
9. Death/ Funeral Benefits – P30k
10. Maternity Benefits

Performance

1. Tax-Exempt Cash Incentives in International Events (Gold, Silver or Bronze)
 - SEA Games
 - P300k/ 150k/ 60k
 - ASEAN Para-Games
 - P150k/ 75k/ 30k
 - Team: = divided (<5)
2. Scholarships (full tuition fee SUC; private schools encouraged)
3. Retirement (lump sum 25% of cash prizes)



NSA Benefits

depends on financial capacity

1. Coaching and Training Staff
2. Support Staff
3. Allowance and Benefits
4. Facilities
5. Funds
6. Sponsorships
7. Apparel
8. Competition Expenses
 - Allowance or stipend
 - Airfare
 - Accommodations
 - Land Transportation
 - Food
 - Medical expense
 - Insurance
 - Miscellaneous expenses



(5) Must an NSA
provide for a Safe
Environment/ Space
for National Athletes?

Sports Law-for-All

No. 1

Alberto C. Agra

August 24, 2020

Bawal Bastos sa Sports

Anti-Gender-Based Harassment in Sports

A sports-based primer on the Safe Space Act

What is the “Bawal Bastos” Law or Anti-Gender-Based Harassment Law?

Bawal Bastos Law is the popular reference to Republic Act No. 11313 or the Safe Space Act (SSA). This law, which took effect on August 3, 2019, expands the definition of sexual harassment under the Anti-Sexual Harassment Act or RA 7877 (1995), which is still subsisting, by defining personal places of safety. Now, anyone can be an offender, not just persons in authority, and can be held liable for misogynistic, transphobic, homophobic and sexist remarks and slurs, and SSA-specified actions in public places and cyberspace.

What are the prohibited acts under the SSA?


Fine and/or imprisonment and community service, the amount or duration of which shall depend on the severity and repetition, shall be imposed on those who commit:

1. Gender-Based Streets and Public Spaces Sexual Harassment (GSH);
 - a) Gender-Based Streets and Public Spaces Sexual Harassment;
 - b) Gender-Based Sexual Harassment in Restaurants and Cafes, Bars and Clubs, Resorts and Water Parks, Hotels and Casinos, Cinemas, Malls, Buildings and Other Privately-Owned Places Open to the Public;
 - c) Gender-Based Sexual Harassment in Public Utility Vehicles; and
 - d) Gender-Based Sexual Harassment in Streets and Public Spaces Committed by Minors;
2. Gender-Based Online Sexual Harassment (GOSH);
3. Gender-Based Sexual Harassment in the Workplace; and
4. Gender Based Sexual Harassment in Educational and Training Institutions.



What is the meaning of Gender-Based?

Under the SSA, “Gender” refers to a set of socially ascribed characteristics, norms, roles, attitudes, values and expectations identifying the social behavior of men and women, and the relations between them. “Gender identity and/or expression” refers to the personal sense of identity as characterized, among others, by manner of clothing, inclinations, and behavior in relation to masculine or feminine conventions. A person may have a male or female identity with physiological characteristics of the opposite sex, in which case this person is considered transgender.

Elements	GSH	GOSH
Offender	Any person, even a minor (s/he need not be a person in authority)	
Offended Party	Any person	
Nature	Unwanted and uninvited sexual actions or remarks regardless of the motive which threatens one's sense of personal space and physical safety	<ul style="list-style-type: none"> ● Online conduct targeted at a particular person that causes or likely to cause another mental, emotional or psychological distress, and fear of personal safety ● Use of information and communications technology in terrorizing and intimidating victims through physical, psychological, and emotional threats
Place Committed	<u>Public Places</u> <ul style="list-style-type: none"> ● streets and alleys ● public parks ● schools ● buildings ● malls ● bars and restaurants ● transportation terminals ● public markets ● evacuation centers ● government offices ● public utility vehicles ● private vehicles covered by app-based transport network services ● cinema halls and theaters ● spas 	Cyberspace/ Online 

Types

1. Verbal Remarks or Slurs which are misogynistic, transphobic, homophobic and sexist in nature: <ul style="list-style-type: none"> ● Cursing ● Wolf-whistling ● Cat-calling ● Leering and intrusive gazing ● Taunting ● Making unwanted invitations ● Making persistent unwanted comments on one's appearance ● Making relentless requests for one's personal details ● Using words, that ridicule on the basis of sex, gender or sexual orientation, identity ● Persistent telling of sexual jokes ● Using sexual names, comments and demands ● Making any statement that has made an invasion on a person's personal space or threatens the person's send of personal safety 	<ul style="list-style-type: none"> ● Public or through direct and private messaging ● Invading victim's privacy through cyber stalking and incessant messaging ● Uploading and sharing without the consent of the victim, any form of media that contains photos, voice, or video with sexual content ● Unauthorized recording and sharing of any of the victim's photos, videos, or any information online ● Impersonating identities of victims online ● Posting lies about victims to harm their reputation and filing false abuse reports to online platforms to silence victims
2. Non-Verbal <ul style="list-style-type: none"> ● Making offensive body gestures at someone ● Exposing private parts for the sexual gratification of the perpetrator with the effect of demeaning, harassing, threatening or intimidating the offended party ● Flashing of private parts, public masturbation, groping, and similar lewd sexual actions 	
3. Physical <ul style="list-style-type: none"> ● Stalking ● Offensive sexual harassment ● Touching, pinching, or brushing against the genitalia, face, arms, anus, groin, breasts, inner thighs, face, buttocks or any part of the victim's body 	



(6) Must a National Athlete follow the NSA Coach *all the time*? Get his/her own Coach?



Generally ...

Yes

1. Training Program
2. Training Schedule
3. Strength and Conditioning
4. Competitions

Except

1. Personal Performance Gear
2. Affecting physical, social, psychological and mental well-being, such as but not limited to diet, supplements, therapy, medication and vaccination (Right to Consent)
3. Abuse, harassment and discrimination

Engage Personal Coach Options



NSA does **not allow**.

NSA **allows** without condition/ limitation.

NSA allows subject to **condition** (e.g. coordination).

National Athlete **decides**.



(7) Must National
Athletes practice
Sportspersonship?

Sportspersonship in Agra Template



refers to the Athlete's conduct which includes:

- respecting **opponents**, competition **officials**, employees, the public
- respecting **facilities, equipment**, resources, privileges and operating procedures
- practicing **safe sport**
- displaying courtesy and **good manners**
- acting **responsibly and maturely**
- refraining from the use of profane or abusive **language**
- refraining from unduly manipulating **competition**
- abstaining from illegal and banned **drugs**
- helping **build better humans** and **active communities**



(8) What are the other responsibilities/obligations of National Athletes?



Responsibilities

must be explained/ published

1. Code of Conduct/
Ethics
2. Peak Performance
3. Competitions
4. Training
5. Instructions
6. Clean Living
7. Hazardous Activities
8. Injuries and Medical
9. Competition Rules
10. NSA Activities
11. Exclusivity



(9) Can a National Athlete get **sponsors** other than those secured by the NSA?



Scenarios

NSA **approves/ clears** all.

National Athlete has freedom to **secure**.

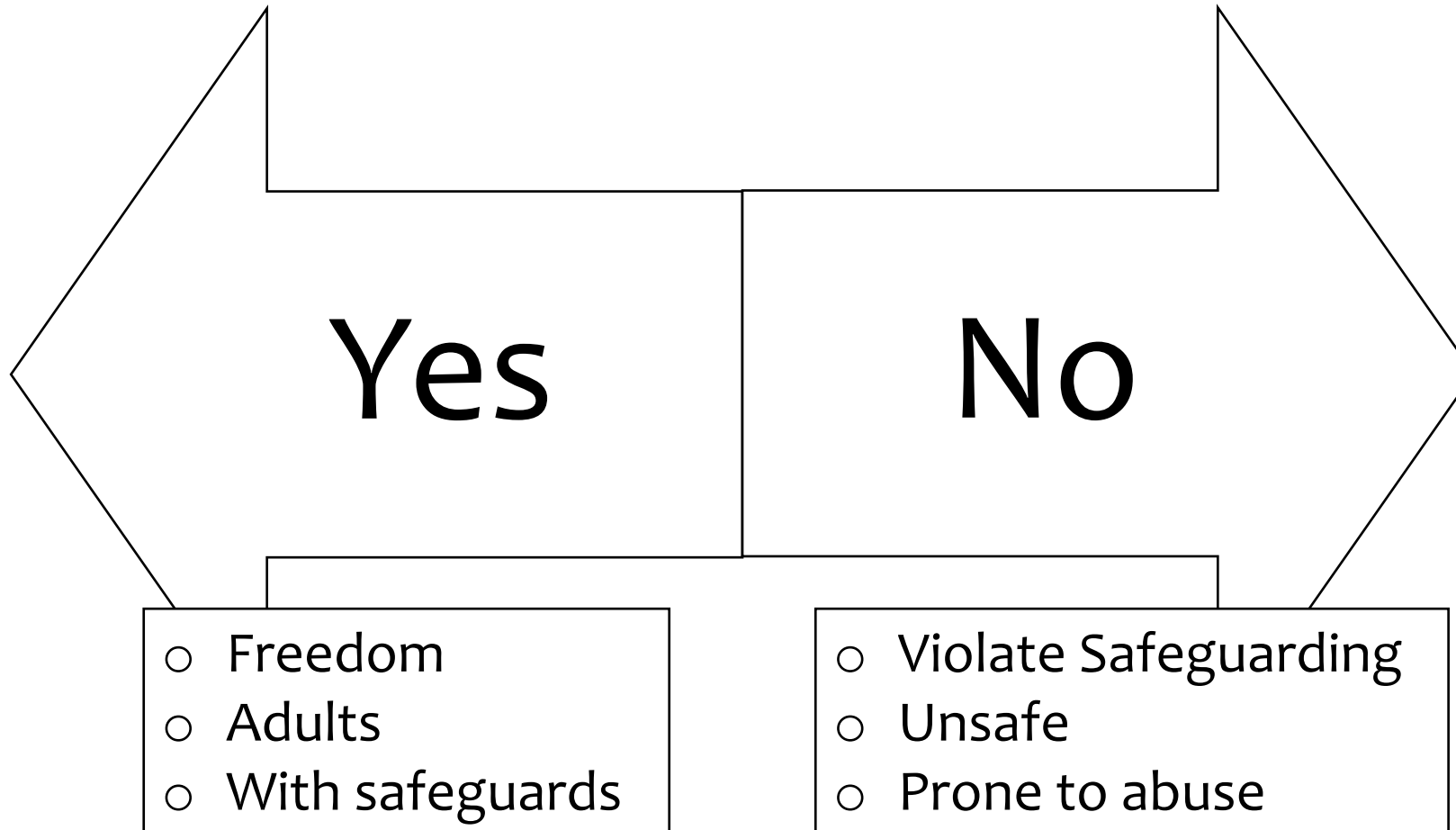
Official Team Uniform, NSA prevails (except PPG).

NSA gets **share** in Athlete's sponsors.



(10) Can a National Athlete have a **romantic relationship** with another Athlete? Coach? NSA Official?

2 Views *must be defined*





**(11) Can a National
Athlete be removed?
Delisted? Sanctioned?**



Yes, provided ...

Possible Grounds

- Performance
- Coachability
- Attendance
- Compliance with NSA policies

Note: Pre-determined and published

Application

- Penalty commensurate to offense
- Fair
- Due Process
- Redress



(12) *Must an NSA inform the National Athletes about its policies, operations and budget? Extent of their participation in governance?*

Are National Athletes NSA Members? *under the Revised Corporation Code*



Vote

Representation

Inspection

Under By-Laws



(13) Where can
National Athletes
seek redress? File
complaints?



Venues

1. NSA

- Grievance Procedure
- Alternative Dispute Resolution
- By-Laws

2. POC

- Ethics Committee
- Arbitration Committee
- Safe Sports Commission
- Athlete's Commission

3. IF

4. PSC

5. SEC

6. Courts

7. CAS

8. Social Media



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Thank you.