

San José State University Sports Medicine Wellbeing Attendant [Chaperone], Examination, and Treatment Policy

I. Policy Statement

- A. San José State University (SJSU) is committed to providing a safe and respectful environment for all Student-Athletes and SJSU Sports Medicine Staff. All Student-Athletes are entitled to have their Sports Medicine Encounters conducted with appropriate privacy, dignity, and respect.
- B. Both Student-Athletes and Sports Medicine Staff have a right to request that a Wellbeing Attendant be present for any type of Sports Medicine Encounter. If a Wellbeing Attendant is requested by a Student-Athlete or Sports Medicine Staff member but not immediately available, the Sports Medicine Encounter will be rescheduled at a time when a Wellbeing Attendant is available.
- C. A Wellbeing Attendant must be present for the duration of any Sports Medicine Encounter involving a Sensitive Area, unless, after the Encounter is explained, the Student-Athlete declines the presence of a Wellbeing Attendant.

II. Purpose

- A. This policy is designed to promote and support Student-Athlete safety and dignity, privacy and Informed Consent, and to foster effective communication between Student-Athletes and Sports Medicine Staff by ensuring the availability of a Wellbeing Attendant for any Sports Medicine Encounter, including all Sports Medicine Encounters involving a Sensitive Area.
- B. The use of Wellbeing Attendants is only one part of SJSU's efforts to provide safe and responsible care. The University also maintains and fosters a culture of responsibility and accountability through educational programming for Student-Athletes and Sports Medicine Staff, and by maintaining effective response protocols for reports of suspected unprofessional or unsafe behavior.

III. Scope

- A. This policy applies to every Sports Medicine Encounter as defined in this policy.

B. Definitions

- 1. **Documentation:** Information recorded in a Student-Athlete's electronic treatment record.
- 2. **Informed Consent:**
 - a. Informed Consent is a clear explanation of the Sports Medicine Encounter (including before and during the Encounter, and clear identification of the areas that will be touched) and the expected benefits and potential risks of the Sports Medicine Encounter, followed by a clear verbal agreement from the Student-Athlete to proceed with the Sports Medicine Encounter. The Student-Athlete will always be given an opportunity to consult with the Sports Medicine Staff member to resolve any questions or concerns before deciding whether to consent to the Sports Medicine Encounter.

- b If the treatment to be administered involves a Sensitive Area, the Student-Athlete must be told the areas that will be touched and must consent to contact with each area.
 - c The Sports Medicine Staff member must document that informed consent was received, and, if a Sensitive Area was involved, the additional consent to contact with each such area.
- 3. **Sensitive Area:** For the purpose of this policy, intimate or sensitive areas are the areas of, and regions surrounding, the buttocks, pelvis, and female breasts. A Sensitive Area may also extend to and include any area of the body from which an article of clothing needs to be partially removed/repositioned to perform the Encounter. Some Student-Athletes consider any visual exam or palpation of a body part that is normally covered by clothing (i.e., stomach, lower back, or upper legs) to be sensitive. For this reason, Sports Medicine Staff will also honor a Student-Athlete's request that a Wellbeing Attendant be present for any exam, even if it falls outside of this policy's definition of a Sensitive Area.
- 4. **Sports Medicine Encounter (or Encounter):** Any evaluation, treatment, examination, procedure, or rehabilitation session performed on a Student-Athlete by a member of the SJSU Sports Medicine Staff.
- 5. **Sports Medicine Staff:** The Sports Medicine Staff includes certified athletic trainers, physical therapists, physical therapy fellows, chiropractors, physician fellows, and physicians who are employed by, or affiliated with, San Jose State University Athletics.
- 6. **Student-Athlete:** For the purpose of this policy, a Student-Athlete is a student member of an SJSU athletic program who requires a Sports Medicine Encounter with a member of the Sports Medicine Staff. A Student-Athlete may also be a student of a visiting team, but only if there is no medical professional from that visiting team's own institution and they have requested treatment by a Sports Medicine Staff member.
- 7. **Wellbeing Attendant (or Chaperone):** A Wellbeing Attendant is a person who serves as an objective observer for a Student-Athlete and Sports Medicine Staff member during a Sports Medicine Encounter. Depending on the circumstances, a Wellbeing Attendant may be a duly trained: (i) Sports Medicine Staff member; (ii) Sports Medicine Intern/Volunteer; (iii) SJSU Athletics coach; or (iv) SJSU Student-Athlete or SJSU student enrolled in a related field of study specifically trained to serve as a Wellbeing Attendant. Whenever reasonably practicable, a Student-Athlete's request for a Wellbeing Attendant of a specific gender (including nonbinary) will be honored.

IV. Protocols for Sports Medicine Encounters

A. Privacy, Communication, Documentation, and Informed Consent

- 1. Every reasonable effort to maintain a Student-Athlete's dignity and physical privacy should be made. As such, Student-Athletes should be appropriately draped and the drape should be utilized as a visual barrier between the Student-Athlete and the Sports Medicine Staff. To the extent possible, treatment of a Sensitive Area should be performed using the draping as a barrier to skin-to-skin contact between the Student-Athlete and the Sports Medicine Staff member.
- 2. A Student-Athlete may request a Sports Medicine Staff member other than their assigned Sports Medicine Staff member for any Encounter. If an alternative Sports Medicine Staff

member is not available at the time of the Encounter, the Encounter will be postponed until another Sports Medicine Staff member is available.

3. At the outset of every Sports Medicine Encounter, the Sports Medicine Staff member shall inform the Student-Athlete of their right to a Wellbeing Attendant during the Encounter. The Student-Athlete's decision shall be documented in the Student-Athlete's treatment record. The Student-Athlete shall also be informed of their right to decline any Wellbeing Attendant provided and to request a different Wellbeing Attendant, including of a different gender (including nonbinary), if available, and if not, their right to reschedule the Encounter.
4. Prior to and during the Encounter, the Sports Medicine Staff member will explain the reasons for the Encounter, including the treatment modality, and anticipated benefit/plan for future care of any Sports Medicine Encounter.
5. Informed Consent for each Encounter must be obtained prior to beginning any Sports Medicine Encounter. The details of the Encounter must be explained and clearly discussed with the Student-Athlete prior to the start of the Sports Medicine Encounter. If the treatment involves a Sensitive Area, this includes identifying the Sensitive Area(s) that will be assessed. After the explanation, the Student-Athlete shall be allowed to consult with the Sports Medicine Staff member to resolve any questions or concerns to make an informed decision as to whether they consent to or decline the examination/treatment (Informed Consent). The Student-Athlete will be notified of the right to stop the treatment at any time.
 - a Where the scope of the Encounter changes during the session, additional consent to examine and/or make contact with a Sensitive Area must be obtained and documented prior to beginning the examination of that Sensitive Area.
 - b For any Encounter that involves or progresses to a Sensitive Area, all elements of Informed Consent must be documented in the Student-Athlete's treatment record.

B. Use of Wellbeing Attendants

1. A Student-Athlete or Sports Medicine Staff member may request a Wellbeing Attendant at any time for any Sports Medicine Encounter.
 - a If the Sports Medicine Staff member or the Student-Athlete does not wish to proceed with the assigned Wellbeing Attendant, the Encounter shall be rescheduled with a different Wellbeing Attendant.
 - b If the Sports Medicine Staff member has requested a Wellbeing Attendant and the Student Athlete does not want to proceed with a Wellbeing Attendant, the Encounter shall be rescheduled with a different Sports Medicine Staff Member.
2. A Wellbeing Attendant must be present for all Sports Medicine Encounters in hotel bedrooms (e.g., during away games or tournaments) or other private areas, regardless of whether a Sensitive Area is treated.
3. Whenever possible, a Student-Athlete's request for a Wellbeing Attendant of a specific gender (including nonbinary) will be honored.
4. When a Wellbeing Attendant is utilized, the name and position (e.g., student, graduate student, athletic trainer) of the Wellbeing Attendant will be noted in the Student-Athlete's treatment record.

5. For any Sensitive Area treatment, a Wellbeing Attendant must be present for the duration of any Encounter of a Sensitive Area.
 - a A Student-Athlete who is 18 years or older may decline the presence of a Wellbeing Attending during an Encounter involving a Sensitive Area, provided that the Sports Medicine Staff member first obtains Informed Consent.
 - b A Student-Athlete who is under the age of 18 years may not decline the presence of a Wellbeing Attendant for any Sensitive Area Encounter. If the Student-Athlete does not wish to proceed with the Encounter in the presence of a Wellbeing Attendant, the Encounter will be rescheduled.
 - c Subject to paragraph (b) above, a Student-Athlete's treatment record must contain Documentation regarding the presence of a Wellbeing Attendant, or the Student-Athlete's declination following Informed Consent.
6. A Wellbeing Attendant must actively observe the Sports Medicine Encounter from a position where the physical contact between the Sports Medicine Staff and Student-Athlete is visible. A Wellbeing Attendant shall not be left alone with a Student-Athlete during an Encounter.
7. Information shared with any Wellbeing Attendant will be limited to need-to-know information. Wellbeing Attendants shall not disclose any information learned about or during an Encounter except to individuals who have a need to know.
8. Non-certified student athletic trainers may serve as a Wellbeing Attendant and may assist with an Encounter under the supervision of a certified athletic trainer and with the express consent of the Student-Athlete, but they may not treat any Sensitive Area.

C. Locations

1. For the safety of the Sports Medicine Staff and Student-Athletes, when practicable, Sports Medicine Encounters should be performed in an open athletic training room in which other individuals are present, unless the Student-Athlete requests that the Encounter be performed in a closed office or other private location. A visual barrier or draping will always be offered regardless of where the Sports Medicine Encounter is performed.
2. The protocols set forth in this policy apply to Sports Medicine Encounters in any location, including circumstances in which a closed office is requested by a Student-Athlete or while on travel.
3. Travel: A hotel bedroom or other private area should not serve as the primary location for Sports Medicine Encounters while a team is traveling unless no other location of the hotel is available or appropriate.
 - a If no other location of the hotel is available and a Sports Medicine Encounter must occur in a hotel bedroom, or other private area in which no other individuals are present, the Student-Athlete will be asked to choose whether they prefer the door closed or opened. A Wellbeing Attendant must be present for all Sports Medicine Encounters in hotel bedrooms or other private areas, regardless of whether a Sensitive Area is treated. If a Wellbeing Attendant is requested and is not readily available, the Sports Medicine Staff member must not perform the Sports Medicine Encounter and shall schedule the Sports Medicine Encounter at a time when a Wellbeing Attendant is available.

V. Required Trainings

A. Training on policy.

1. All Sports Medicine Staff and Student-Athletes must receive annual, in-person training on this policy, and additional training will be available upon request.
 - a Training(s) for Sports Medicine Staff, non-certified student athletic trainers, and any other person serving as a Wellbeing Attendant shall include an explanation of this policy, information about responding to a disclosure related to a Sports Medicine Encounter (including, but not limited to, mandated reporting obligations and students' rights under Title IX of the Education Amendments of 1972 (Title IX)) and instructions for reporting disclosures to the Title IX Office.
 - b Training(s) for Student-Athletes shall include an explanation of this policy, information on ways to request a Wellbeing Attendant, and how to report concerns arising during a Sports Medicine Encounter to the Title IX Office.

B. Training for persons serving as Wellbeing Attendants.

1. All individuals who may serve as Wellbeing Attendants (defined in III.B.7. of this policy) must receive annual, in-person training regarding the role, function, and expectations of performance for Wellbeing Attendants. The training shall include a detailed explanation of the policy, examples of inappropriate conduct during Sports Medicine Encounters and the types of conduct a Wellbeing Attendant must report, information about mandated reporting and students' rights under Title IX, and instructions and contact information for making reports to the Title IX Office. Additional training will be available upon request.
2. Individuals must have received the most up-to-date version of this training, reflective of any revisions to this policy, in order to serve as a Wellbeing Attendant.

C. The Director of Sports Medicine will maintain certifications of all required annual trainings in Section V.

VI. Additional Guidelines

- A. Emergency care (care that is intended to prevent permanent injury or death) shall not be impeded by this policy.
- B. It is the responsibility of the Sports Medicine Staff member to accurately document the presence or declination of a Wellbeing Attendant as described above.
- C. This policy shall be distributed to all Sports Medicine Staff and Student-Athletes and shall be posted in or near treatment areas.
- D. It is the obligation of Sports Medicine Staff and any SJSU employee who observes behavior they deem inappropriate to stop the treatment and immediately report the matter to the Director of Sports Medicine or the Assistant Athletics Director for Student Wellness and Leadership, whichever they feel most comfortable with. If the inappropriate conduct might constitute sexual harassment or sexual misconduct or otherwise violate the CSU Policy against Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating and Domestic Violence, and Stalking (including verbal comments about physique or body parts, comments with sexual undertones, or any questionable touching of any body part), the SJSU Sports Medicine Staff member or employee shall also promptly report the conduct directly to the SJSU Title IX

Coordinator, as required by CSU antidiscrimination policy available at
<https://calstate.policystat.com/policy/10926024/latest/>
(Notice of Nondiscrimination | Title IX and Gender Equity Office (sjsu.edu)).

Last Updated: July 18, 2022