

# USSSA Background Check Policy Procedures

## Statement of Purpose:

The United States Swim School Association (USSSA) has a core value of safety and is committed to doing our part to foster a safe environment for swimmers and their families at member swim schools.

*Note: Due to inherent limitations and information from a background check, a completed check does not guarantee there has been no misconduct.*

## This Policy Applies to:

These policies and procedures apply to all USSSA domestic owner members. Owner is defined as anyone with any percentage of ownership in a member swim school business that has any contact with children, their families or staff at the swim school. It is the responsibility of the owner to complete the requested background check application with payment for each swim school owner every two years. If all owners do not complete a background check membership can be denied. If it is discovered that not all owners as defined above have completed a background check this could be a violation of the USSSA Code of Ethics and would be subject to the procedures as outlined in the Code of Ethics. It is also strongly recommended that a member swim school background check ALL of their employees over the age of 18 every two years using NCSI a SportsEngine company Gold Standard 7 year search or a similar accredited company able to offer a similar search.

## Statement of Procedure:

- I. Authorized Background Check Organization
  - A. The National Center for Safety Initiatives (NCSI) as a part of SportsEngine shall conduct all background checks for the USSSA owner members. NCSI is a full-service screening organization that works in accordance with the *Recommended Guidelines*® established by the National Council of Youth Sports ("NCYS").

In addition to conducting background checks, NCSI is responsible for evaluating background check results, communicating with individuals regarding their background check results, and reporting to the USSSA (hereinafter "Responsible Sport Organization") all background check results. NCSI will also be responsible for complying with the Fair Credit Reporting Act ("FCRA"), storage of background

check records, and maintaining the confidentiality of information obtained in the background check process.<sup>1</sup>

## II. Individual Self-Registration Procedure

- A. NCSI will provide the USSSA with a link to the NCSI website via SportsEngine, so that the Responsible Sport Organizations can effectively direct individuals to the website to complete the registration for the individuals' background checks. As part of their online registration at NCSI's secure website, each individual must complete a background check Consent & Authorization form.
- B. From the time an individual self-registers for their background check, through the conclusion of their association with the USSSA, they have the affirmative duty to disclose their criminal history to the USSSA. Failing to disclose or intentionally misrepresenting an arrest, plea, or conviction is grounds for disciplinary action, regardless of when the offense is discovered or occurred. An individual also has an affirmative duty to disclose a pending outcome, confirmed violation, or suspension stemming from any SafeSport-related matter with the U.S. Center for SafeSport. In such an event, the individual must notify the USSSA, in writing and within 24 hours.
- C. As a part of membership renewal or new application for membership, all owners of the swim school applying for membership must complete the registration for individuals' background checks. If a registration for background checks is not completed within 30 days of renewal or application, the swim school can be denied membership in USSSA.

## III. Background Check Search Components

- A. **Full Background Checks.** All full background check screens will include at least the following search components:
  - 1. Social Security Number validation;
  - 2. Name and address history records;
  - 3. Two independent Multi-Jurisdictional Criminal Database searches covering 50 states plus DC, Guam, and Puerto Rico;

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<sup>1</sup> NCSI does not participate in or make decisions regarding an individual's eligibility for participation. Any and all decisions relating to participation shall be determined at the discretion of the USSSA.

4. Federal District Courts search for the district(s) where the individual currently lives or has lived during the past seven years, going back the length of time records are available and reportable based on the name and address the Individual provides and the developed address history records;

5. County Criminal Records for the county (or counties) where the individual currently lives or has lived during the past seven years, going back the length of time records

are available and reportable for each county searched based on the name and address the Individual provides and the developed address history records;

6. Two Sex Offender Registry database searches of all available states, plus DC, Guam, and Puerto Rico;

7. Multiple National Watch Lists;

**B. Supplemental Background Checks<sup>2</sup>.** All supplemental off-year background check screens will be conducted using at least the following search components:

1. Multi-Jurisdictional criminal database covering 50 states plus DC, Guam, and Puerto Rico; and

2. Sex Offender Registry database searches of all available states, plus DC, Guam, and Puerto Rico.

#### IV. Background Check Screening

A. NCSI will provide a “Red Light/Green Light” determination for each background check to the USSSA. A “Green Light” indicates that no reportable criteria-related convictions or pending dispositions were found in the screening process and information needed to complete the background check was received. A “Red Light” means one or both of the following: 1) information is required to complete the screening process (“RL-I”) and/or 2) criteria-related convictions or pending convictions were found and verified in the screening process (“RL-Review”). If a question arises concerning a background check, the individual will be contacted directly by NCSI and given the opportunity to correct potential discrepancies in the individual’s records or to provide additional information prior to NCSI issuing a Red Light determination. In “RL-I” situations the USSSA may also be contacted.

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<sup>2</sup> A supplemental background check is an automatic background check run by NCSI after the first year.

B. A reportable record or disclosure that contains a disposition or resolution of a criminal proceeding, other than an adjudication of not guilty,<sup>3</sup> or the existence of pending charges, for any of the below criminal offenses will be flagged as a Red Light Review, meaning it does not meet the initial screening criteria and the individual will be subject to the USSSA's policies and procedures to determine the individual's level of access and involvement with USSSA (as defined below):

1. Any felony;<sup>4</sup> and

2. Any misdemeanor involving:

a. All sexual crimes, criminal offenses of a sexual nature to include but not limited to; rape, child molestation, sexual battery, lewd conduct, possession and distribution of child pornography, possession and distribution of obscene material, prostitution, indecent exposure, public indecency, and any sex offender registrant;<sup>5</sup>

b. Any drug related offenses;

c. Harm to a minor, including, but not limited to, offenses such as child abandonment, child endangerment/neglect/abuse, contributing to the delinquency of a minor, and DUI with a minor;

d. Violence against a person, force, or threat of force (including crimes involving deadly weapons and domestic violence);

e. Stalking, harassment, blackmail, violation of a protection order, and/or threats;

f. Destruction of property, including arson, vandalism, and criminal mischief;

g. Animal abuse, cruelty, or neglect; and

h. Misdemeanor trespassing.

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<sup>3</sup> For purposes of these procedures, a "disposition or resolution of a criminal proceeding, other than an adjudication of not guilty" shall include, but is not limited to: an adjudication of guilt or admission to a criminal violation, a plea to the charge or a lesser included offense, a plea of no contest, any plea analogous to an *Alford* or *Kennedy* plea, the disposition of the proceeding through a diversionary program, deferred adjudication, deferred prosecution, disposition of supervision, conditional dismissal, juvenile delinquency adjudication, or similar arrangement, or the existence of an ongoing criminal investigation, a warrant for arrest, or any pending charges.

<sup>4</sup> For purposes of these procedures, the term "felony" shall refer to any criminal offense punishable by imprisonment for more than one year.

<sup>5</sup> Any covered individual that has been convicted of, received an imposition of a deferred sentence for, or any plea of guilty or no contest for any sexual crime, criminal offense of a sexual nature, and/or is a sex offender registrant must be reported to the U.S. Center for SafeSport.

V. Appeal to Criminal Background Check Vendor

Any individual has the right to dispute what they consider to be erroneous findings of the criminal background check directly with the criminal background check vendor. The USSSA is required by the Background Check Policy to accept the findings of the criminal background check provider as to the accuracy of the records. However, the USSSA Background Check Review Panel shall exercise their discretion and may take all relevant information into consideration to determine the eligibility status of individuals with Red Light findings.

VI. Background Check Procedures

- A. The USSSA will be notified of Green Light and Red Light status. Individuals will receive Green Light/Red Light notifications. In the event of a Red Light, NCSI will contact the USSSA to request authorization to send an adverse action letter on behalf of the USSSA, and if authorized, will send an adverse action letter to the individual. On request, NCSI will provide additional information to support the USSSA's review and decision process.
- B. After receiving notification of a Red Light Review, the USSSA Review Panel will determine if and to what degree the individual will be affiliated with the USSSA.

VII. Background Check Review Panel and Review Process

- A. The USSSA Background Check Review Panel shall be populated by three individuals from the USSSA Background Check Review Pool ("Review Pool"). Each member of The Review Pool will sign a non-disclosure confidentiality agreement prior to serving. The Review Pool will consist of:
  - 1. Current seated board member (will serve as Chair)
  - 2. Past board member
  - 3. Current member owner with more than five years of membership

B. Review Process

1. Within 3 business days of receipt of a red flag, The USSSA shall email one copy of the report to the Review Panel Chair and one copy to the individual.
2. The Respondent has 10 calendar days to provide a written response to the report. Responses are submitted to the United States Swim School Association via email:

United States Swim School Association  
ATTN: REVIEW PANEL  
[admin@usswimschools.org](mailto:admin@usswimschools.org)  
Tel: 480-837-5525  
United States Swim School Association  
7100 E Cave Creek Rd, Ste. 109  
Cave Creek, AZ 85331

3. Within 3 business days of receipt of the Response, the USSSA shall forward the Response to the Review Panel Chair via email. If the Respondent does not provide a timely Response, the USSSA shall notify the Review Panel Chair that a Response was not submitted so that the Review Panel may review the claim (without the Response) in a timely manner.
4. The Review Panel Chair shall email the Report and Response (if one was received) to the members of the Review Panel for review.
5. Within 14 days of receiving the Response (or notice from the USSSA Office that a timely response was not submitted) the Review Panel shall review the claim, provide a summary of the matter, and present a determination of action to the Association office.
6. Within 3 days of the Review Panel's decision, the Association office shall inform the respondent in writing of the Review Panel's decision via email.

- C. Review Panel Decision: The Review Panel has the discretion to deny affiliation with USSSA to any individual if it finds, in good faith, that permitting an individual with a Red Light Review to participate is inconsistent with the stated purpose of the USSSA's Background Check Policy. In rendering its finding, the Review Panel shall consider the following:

1. The legitimate interest of the USSSA in offering a safe environment for students and families at USSSA Member facilities;
2. The seriousness of the criminal offense or act;
3. The time which has elapsed since the occurrence of the criminal offense or act;
4. The age of the person at the time of occurrence of the criminal offense or act;
5. The bearing, if any, the criminal offense or act has on the individual's ability to perform the necessary functions of their role;
6. Any information produced by the individual, or produced on behalf of the individual with respect to the individual's rehabilitation and good conduct;
7. Any voluntary restrictions on access proposed by the individual;
8. Any recommendation or information provided by the individual's organization; and
9. Any other information, which in the determination of the Review Panel, would bear on whether or not the individual should represent the USSSA.

#### VIII. Appeal Process

- (a) The individual may appeal the Review Panel's decision. Appeals are considered by the USSSA Board of Directors.
- (b) An appeal must be presented to the USSSA (address above) within 10 days of the Association's notice to the parties of the Review Panel's determination.
- (c) Appeals must be in letter format, no more than 1 page, and must present evidence that the Review Panel operated under a mistake of facts, or operated under a mistake in interpretation or application of the Background Check Policy.
- (d) The Board of Directors, at the next Board Meeting, shall review the original claim, the original response, the Review Panel's recommended action, and the appeal, and shall then vote to either uphold, set aside, or amend the Review Panel's decision.

(e) Within 5 days of the Board's decision, the Association office shall inform the individual in writing of the Board's final decision via email.