

City of Saratoga Springs Parks and Recreation

VOLUNTEER POLICIES

The City Council and the Parks and Recreation Department (“Department”) hereby adopt the following policy applicable to all head coaches, assistant coaches, league directors, instructors, and any individual who may be alone with youth. The purpose of this policy is to preserve the safety and well-being of youth participating in youth Sports Programs and other programs involving youth participation that are offered to the residents of the City of Saratoga Springs ("City") and others who utilize City owned, operated, and maintained facilities.

I. Background Checks

A. Implementation

Background checks are mandatory for all coaches, league directors, instructors, and any individual who may be alone with youth (hereinafter referred to as a "Volunteer" and collectively referred to as "Volunteers"), beginning [date of adoption]. All coaches, league directors, and instructors are covered by the Volunteer Policies regardless of whether they receive compensation as independent contractors and/or employees.

Initially, all Volunteers will be required to undergo a criminal background check prior to the beginning of the sport, season, or activity in which they intend to become involved. If a Volunteer is involved in more than one sport, season, or activity, the Volunteer will be required to complete a background check consent form once a year and a background check may be conducted at the discretion of the Department. Each year all new Volunteers will be required to have a background check conducted prior to the beginning of the sport, season, or activity in which they intend to become involved. Volunteers who continue to participate will be required to have a background check conducted every year. In addition, the Department reserves the right to conduct random background checks of Volunteers at any time prior to or during the sport, season, or activity in which the Volunteer is involved. Should an approved Volunteer subsequently have any criminal charges brought against him/her that are listed in the detailed disqualifications list (Section I.C.) during their term of service as a Volunteer, they are required to immediately disclose the nature of the charges to the Director of the Parks and Recreation Department (“Director”) and they may be disqualified until there is a resolution of the charges.

All Volunteers will be required to sign a written consent form allowing the Department to order an individual criminal background check. All signed consent forms must be turned in to the Director no later than the designated due date. Failure to provide a completed consent form by the deadline will automatically disqualify the Volunteer from participation.

B. Background Screening Process and Handling of Information

The Department will be responsible for selecting a reporting agency or method to conduct the background checks. The Director will administer the process of background checks. The Director is responsible for securing the results of the background checks in a safe and secure location and keeping them for the time period required by law, or five years, whichever is greater. The Director is also responsible for ensuring that the records are kept private and are not disseminated except for the purposes of assisting the City in making a decision as to whether the Volunteer is accepted.

If the background check includes any of the listed disqualifications, the Director will receive notification from the reporting agency advising that the background check revealed a disqualifying offense. Upon receiving notification, the Director will disqualify the individual in accordance with these Policies and, therefore, the individual will not be allowed to participate in the youth sports program or other programs involving youth. The individual, who has been disqualified, will receive written notification informing the individual of his/her disqualification and of the method for disputing the results of the background check and his/her right to appeal. Under no circumstances will a Volunteer be considered if the Volunteer has been found guilty, entered a plea of guilty or no contest, or has pending charges of a crime that was one against children, involved violence, or was a sexual offense.

Should the background check indicate that a Volunteer has criminal charges pending that fit the description of charges in the detailed disqualifications list (Section I.C.), the Volunteer will be disqualified until there is a resolution of the charges. Should an approved Volunteer subsequently have any criminal charges brought against him/her that are listed in the detailed disqualifications list (Section I.C.) during their term of service as a Volunteer, they are required to immediately disclose the nature of the charges to the Director and they will be disqualified until there is a resolution of the charges.

C. Disqualification

A Volunteer will be disqualified and prohibited from serving if the person has been found guilty or has pending charges of the crimes listed below. Guilty means the person was found guilty following a trial, entered a guilty plea, or entered a no contest plea, regardless of the adjudication or whether the record has been expunged. Pending means the person has been charged but a resolution of those charges has not been reached. This policy does not apply if criminal charges resulted in acquittal or dismissal.

1. All sexual offenses, regardless of the amount of time since the offense. Examples include, but are not limited to child molestation, rape, sexual assault, sexual battery, statutory rape, prostitution, solicitation, and indecent exposure.

All felonies that constitute offenses against the person, regardless of the amount of time since the offense. Examples include, but are limited to criminal homicide, murder, automobile homicide, child abuse homicide, manslaughter, homicide by assault, aggravated assault, mayhem, kidnapping, human trafficking, and robbery.

2. Any crimes *involving children*, regardless of the amount of time since the offense.
3. All felony offenses other than those against the person or sexual within the past ten years. Examples include, but are not limited to drug offenses, theft, embezzlement, fraud, arson, and burglary.
4. All misdemeanors that constitute offenses against the person within the past seven (7) years. Examples include, but are not limited to: simple assault, domestic violence, and hit and run.
5. All misdemeanor drug and alcohol offenses within the past five (5) years or multiple of such offenses in the past ten (10) years. Examples include, but are not limited to driving under the influence, simple drug possession, disorderly conduct, public intoxication, and possession of drug paraphernalia.
6. Any other offense within the past five (5) years that could be considered a potential danger to children or demonstrates a propensity for violence.

Nothing in this Policy shall be construed as a waiver or limitation of the discretion of the Department to disqualify a Volunteer when, in the sole opinion of the Department, such is in the best interests of the City, the public, or the program participants.

D. Correcting Errors and Appealing Disqualification

The Volunteer is responsible for contacting the reporting agency and taking appropriate action to have the results of the background check report corrected if he or she believes information was reported in error. The City, its employees, and its sports providers are not responsible for errors or omissions that may be reported on background checks.

Any Volunteer applicant who is disqualified may appeal the disqualification to the Background Check Sub-Committee. The Background Check Sub-Committee has the sole authority to overturn the disqualification for good cause shown based upon demonstrable proof that, under the circumstances, the offense resulting in disqualification does not, at the time of the appeal, justify disqualification on the basis that the applicant would pose a risk of harm to children, the public, City property, or others. The decision of the Background Check Sub-Committee will be final. The Background Check Sub-Committee shall consider the appeal within thirty (30) days of receipt of the appeal, at which time the Volunteer applicant will have an opportunity to appear before the Background Check Sub-Committee along with the Volunteer's representative. Members of the public are not invited to attend. The Background Check Sub-Committee shall render its decision on the appeal within five (5) business days of hearing the appeal.

The Background Check Sub-Committee will consist of the Director of the Parks and Recreation Department or his/her designee, the Recreation Superintendent or his/her designee, the City Attorney or his/her designee, the Director of Personnel or his/her designee, and the Chief of Police or his/her designee.

Appeal Process

If a Volunteer would like to appeal a disqualification, the Volunteer must submit a Notice of Appeal and a copy of the decision that is being appealed (e.g., the notification letter). The Notice of Appeal must be mailed by certified mail to the Director within 10 calendar days of receiving the background check notification letter. In order for the appeal to be accepted, it must include:

1. The full name and address of the appellant. (***The Volunteer appealing is the appellant***).
2. The name and address of the person, if any, making the request for an appeal on behalf of the appellant (e.g., lawyer or spokesperson).
3. The grounds for the appeal. (The appellant should provide a detailed explanation of the appellant's objections to the decision; describe additional facts or factual errors in the decision).
4. The particulars relevant to the appeal (The appellant should describe any background facts that relate to the appeal including how you are affected by the decision).
5. The signature of the appellant or the appellant's representative.

II. Photo Identification

Photo identification serves the purpose of identifying Volunteers as qualified and authorized personnel. Accordingly, each Volunteer will be responsible for complying with the guidelines as set forth below, including obtaining photo identification and having the photo identification at all times of service. Failure to adhere to the guidelines addressing photo identification is grounds for removal from service. Photo identification can be any government issued identification such as a driver's license or government identification card.

III. Training

All Volunteers must participate in any required training through the Department. The Director will advise Volunteers of any required training after the Volunteer has completed the mandatory background check. Failure to complete required training is grounds for removal from service.