

**PENNSYLVANIA STATE ATHLETIC CONFERENCE  
BACKGROUND CHECK POLICY  
(ADOPTED OCTOBER 12, 2015)**

**I. PURPOSE**

Pennsylvania State Athletic Conference (“PSAC”) is committed to protecting the security, safety, and health of employees, students and others, safeguarding its resources, and assuring that individuals in responsible positions are worthy of the trust they are given. The purpose of this Background Check Policy (“Policy”) is to establish the background check requirements and procedures for PSAC prospective employees, current employees, and certain contractors.

**II. STATEMENT ABOUT BACKGROUND CHECKS AND DISCRIMINATION**

Information discovered through the background check process will be used solely for the purpose of evaluating suitability for employment or independent contractor services. Information will not be used to discriminate against an individual on the basis of race, color, religion, creed, sex, gender, age, sexual orientation, gender identity or expression, national origin, genetic information, marital or familial status, disability, military, or veteran status.

**III. SCOPE**

- A. Mandatory Background Checks for Prospective Employees. PSAC requires background checks for all adults (i.e., age 18 or older) offered PSAC employment.
- B. Mandatory Background Checks for Current Employees. PSAC requires background checks for all current PSAC employees if they have not previously undergone the background check process under this Policy.
- C. Student Employees; Short-Term Employment. PSAC may require background checks at the discretion of the Commissioner for any student employee whose duties include direct contact or routine interaction with children, handling currency or financial data, or having access to sensitive computerized databases or confidential information.
- D. Independent Contractors. PSAC requires background checks for independent contractors who perform services for PSAC or PSAC-member institutions if the independent contractor is required to have background checks under the Pennsylvania Child Protective Services Law, 23 Pa.C.S. § 6301 et seq. (“CPSL”) or would be required to have background checks under CPSL if the independent contractor were an employee of PSAC or a PSAC-member institution. For example, officials for athletic events sponsored by PSAC or PSAC-member institutions generally have direct contact with children or routine interaction with children, such that the officials must have background checks even though they are generally not employees of PSAC or PSAC-member institutions.

- E. Contractor Responsibility for Conducting Background Checks. Independent contractors performing services for PSAC or PSAC-member institutions are responsible for obtaining background checks on all employees, agents, and subcontractors that provide services to PSAC or PSAC-member institutions if the employees, agents, and subcontractors of the independent contractor are required to have background checks under the Pennsylvania Child Protective Services Law, 23 Pa.C.S. § 6301 et seq. (“CPSL”) or would be required to have background checks under CPSL if the employees, agents, and subcontractors of the independent contractor were employees of PSAC or a PSAC-member institution. For example, an independent contractor who assigns officials for athletic events sponsored by PSAC or PSAC-member institutions is responsible for obtaining background checks on the officials. Upon request, the independent contractor shall certify to PSAC that such employees, agents, and subcontractors have satisfactorily completed the background checks.
- F. Required Contract Provision. The following provision (or words of similar import) shall be included in all contracts between PSAC and independent contractors performing services in connection with student activities sponsored by PSAC: “Contractor acknowledges that Contractor’s activities involve heightened risks as a result of access or exposure by Contractor’s employees, agents, or subcontractors to students, including children. Contractor shall take all commercially reasonable measures to mitigate any such risks, which measures shall include but are not limited to obtaining criminal history background checks on all employees, agents, or subcontractors who will be performing work at PSAC or at a PSAC-member institution. Upon request, Contractor shall certify in writing that it has complied with this provision and that all employees, agents, and subcontractors performing work hereunder have satisfactorily completed Contractor’s background checks.” The contract between PSAC and the independent contractor shall specify the three types of background checks required by Section V.A of this Policy and require the independent contractor to acknowledge its obligation to report suspected child abuse under applicable law. The contract between PSAC and the independent contractor may require annual certifications of compliance by Contractor and Contractor’s, employees, agents, and subcontractors.

#### **IV. PROCEDURES**

- A. Authority to Initiate Background Checks. The Commissioner has the sole authority to initiate background checks on behalf of PSAC under this Policy. The Commissioner shall notify applicants during the pre-employment process that an offer is subject to completion of background checks satisfactory to PSAC.
- B. Consent to Conduct Background Checks. Applicants must provide written consent to background checks to be considered for a position. Any applicant who refuses to consent to the background checks, refuses to provide information necessary to

conduct the background checks, or provides false or misleading information will not be considered for the position for which he or she has applied. Any applicant who has already been hired and is subsequently found to have provided false or misleading information related to the background checks may be subject to disciplinary action, up to and including termination. Except as otherwise required under applicable law, disqualification for a position based on information discovered in a background check is not subject to grievance or appeal by the individual.

- C. Confidentiality. The information obtained through background checks is confidential and will be shared only with individuals with an essential business need to know. The Commissioner shall maintain records of the background checks.
- D. Screening. Background checks must be completed before employment begins, except as provided below. Any offers made before applicable background checks have been completed shall be conditional upon completion of the background checks to the satisfaction of PSAC. With the approval of the Commissioner and the Chair of the Board of Directors, employment may begin prior to completion of the background checks only as a conditional offer of employment and when there is a compelling need. Conditional offers shall be withdrawn if the results of the background checks are deemed to disqualify the applicant for the position (regardless if conditional employment began).
- E. Responsibility for Costs. PSAC shall pay the costs of background checks for prospective and current employees. Independent contractors shall pay the costs of their background checks unless the Commissioner agrees otherwise.

## V. **CONTENT OF BACKGROUND CHECKS**

- A. Background checks for employees and independent contractors required under this Policy must include, and PSAC shall maintain the original or a copy of, the following:
  - 1. A report of criminal history record information from the Pennsylvania State Police or a statement from the Pennsylvania State Police that the State Police central repository contains no such information relating to that person;
  - 2. A certification from the Pennsylvania Department of Human Services as to whether the applicant is named in the statewide database as the alleged perpetrator in a pending child abuse investigation or as the perpetrator of a founded report or an indicated report; and
  - 3. A report of federal criminal history record information. To obtain this report, the individual shall submit a full set of fingerprints to the Pennsylvania State Police for the purpose of a record check, and the Pennsylvania State Police or its authorized agent shall submit the

fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the individual and obtaining a current record of any criminal arrests and convictions.

4. If the employee or independent contractor has direct contact or routine interaction with children, updated background checks must be obtained every five years.

B. Background checks for employees and independent contractors may include, in the discretion of the Commissioner:

1. Educational history check: Verifying that the individual possesses all of the relevant educational credentials cited by him or her or listed on the application, resume, or cover letter.
2. Employment history check: Verifying that the individual worked in the positions cited by him or her or listed on the application, resume, or cover letter. This verification will include dates of employment and the reasons for leaving each position for at least the seven years immediately preceding the individual's application to PSAC.
3. Employment reference check: Ensuring that PSAC receives positive feedback about the individual's character and performance at work from persons familiar with both.
4. License history check: Verifying, if required by the position, that the individual possesses all the licenses cited by him or her or listed on the application, resume, or cover letter. Verification includes establishing the current status of the relevant licenses. This includes checking, for example, any motor vehicle driver's license required by the position.
5. Credit history check: Checking the credit history of the individual, if required by the position. A credit history check shall be conducted in compliance with the Fair Credit Reporting Act. To the extent required by the Fair Credit Reporting Act, PSAC shall give applicants written notice of adverse information discovered in the background check and an opportunity to respond. Upon conclusion of the review, PSAC will give written notice to the applicant regarding PSAC's decision of eligibility for the position.

**VI. GROUNDS FOR DENYING OR TERMINATING PSAC EMPLOYMENT OR PARTICIPATION IN PSAC-SPONSORED ACTIVITIES**

- A. Automatic Disqualification. Consistent with the CPSL, PSAC shall not hire or engage the services of an applicant and shall terminate an employee or independent contractor:
1. Where the Pennsylvania Department of Human Services has verified that the individual is named in the statewide database as the perpetrator of a founded report of child abuse committed within the five-year period immediately preceding verification;
  2. If the individual's criminal history record information indicates the individual has been convicted of one or more of the offenses under Title 18 (relating to crimes and offenses) that are listed in attached Appendix A or an equivalent crime under federal law or the law of another state; or
  3. If the individual's criminal history record information indicates the individual has been convicted of a felony offense under the act of April 14, 1972 (P.L. 233, No. 64), known as The Controlled Substance, Drug, Device and Cosmetic Act, committed within the five-year period immediately preceding verification.
- B. Other Grounds for Disqualification. The Commissioner may reject an applicant if the applicant has:
1. Been convicted of any felony under Pennsylvania law not listed in Appendix A, or an equivalent offense under federal law or the law of another state, unless a period of ten years has elapsed from the date of expiration of the sentence for the offense;
  2. Been convicted of any misdemeanor of the first degree under Pennsylvania law not listed in Appendix A, or an equivalent offense under federal law or the law of another state, unless a period of five years has elapsed from the date of expiration of the sentence for the offense;
  3. Been convicted of more than one misdemeanor offense relating to driving under the influence of alcohol or a controlled substance unless a period of three years has elapsed from the date of expiration of the sentence for the most recent offense;
  4. Been convicted of forgery, fraud, embezzlement, perjury, or another offense that relates to or calls into question the character, integrity, honesty or veracity of the applicant; or

5. Engaged in conduct that is inconsistent with the purposes, ideals, and principles of PSAC or that relates to or calls into question the applicant's character, integrity, honesty or veracity.
  6. Consistent with 18 Pa. C.S. § 9125, the Commissioner may reject an applicant on the basis of criminal history record information under Subsections 1 through 4 of this Section VI. B only if the history relates to the applicant's suitability for the position in question.
- C. Notice to Rejected Applicant. PSAC shall notify the applicant in writing if the decision not to hire the applicant is based, in whole or in part, on criminal history record information.

## VII. REPORTING OBLIGATIONS

- A. CPSL Mandated Reporting. PSAC acknowledges that CPSL requires certain adults to report suspected child abuse under various circumstances. PSAC expects its employees and independent contractors to comply with CPSL reporting obligations. In addition to reporting suspected child abuse to the appropriate governmental agency, reporters of suspected child abuse acting on behalf of PSAC shall report the suspected child abuse to the Commissioner, and they may rely on PSAC's Whistleblower Policy.
- B. Employee Annual Certification. Each employee shall provide PSAC a written certification on January 1 of each calendar year stating that there has been no change in the employee's status as reported on the three background checks required under Section V.A of this Policy.
- C. Criminal Convictions or Charges. All current employees shall report post-employment arrests for or convictions of a reportable offense listed in this Policy or if named as perpetrator in a founded or indicated report of child abuse to the Commissioner or, in the case of the Commissioner, to the Chair of the Board of Directors, within seventy-two hours of arrest or conviction. Employees failing to self-disclose may be subject to disciplinary action, up to and including termination.
- D. Driver's License Suspension or Revocation. All current employees with primary responsibility for driving as demonstrated in the position description are required to report the post-employment suspension or revocation of a driver's license to the Commissioner or, in the case of the Commissioner, to the Chair of the Board of Directors within seventy-two hours of the suspension or revocation.

## VIII. EXCEPTIONS TO THE POLICY; DISCLAIMER

- A. Exceptions. Except as otherwise provided in this Policy, exceptions to this Policy may be made by the Commissioner after consultation with the Chair of the Board of Directors.
- B. Disclaimer. This Policy is intended as a guideline to assist in the consistent application of PSAC's policies and programs for employees and independent contractors. This Policy does not create a contract, express or implied, with any employee or other individual. PSAC reserves the right to modify this Policy in whole or in part, at any time, in its sole discretion.

Adopted by the Board of Directors on October 12, 2015

## **APPENDIX A**

### **Title 18 Crimes**

Disqualifying offenses under Title 18 (relating to crimes and offenses):

1. Chapter 25 (relating to criminal homicide).
2. Section 2702 (relating to aggravated assault).
3. Section 2709.1 (relating to stalking).
4. Section 2901 (relating to kidnapping).
5. Section 2902 (relating to unlawful restraint).
6. Section 3121 (relating to rape).
7. Section 3122.1 (relating to statutory sexual assault).
8. Section 3123 (relating to involuntary deviate sexual intercourse).
9. Section 3124.1 (relating to sexual assault).
10. Section 3125 (relating to aggravated indecent assault).
11. Section 3126 (relating to indecent assault).
12. Section 3127 (relating to indecent exposure).
13. Section 4302 (relating to incest).
14. Section 4303 (relating to concealing death of child).
15. Section 4304 (relating to endangering welfare of children).
16. Section 4305 (relating to dealing in infant children).
17. A felony offense under section 5902(b) (relating to prostitution and related offenses).
18. Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
19. Section 6301 (relating to corruption of minors).
20. Section 6312 (relating to sexual abuse of children).
21. The attempt, solicitation or conspiracy to commit any of the offenses set forth above.