



US Sailing Policy on Background Checks for Race Officials

As numerous high-profile cases of abuse in the sporting world have shown, sports organizations can be a high-risk environment for misconduct and abuse of athletes. Studies indicate that as many as one in eight athletes will be sexually abused within their sport. Highly publicized athlete abuse scandals at USA Gymnastics, USA Swimming, and USA Taekwondo have eroded the public's confidence in the ability of US sport institutions to protect their athletes from abuse.

In response to these scandals, Congress in 2017 placed new legal requirements on the United States Olympic and Paralympic Committee (USOPC) and its National Governing Bodies (NGBs) that extended mandatory abuse reporting duties. The legislation also designated the US Center for SafeSport as the independent national organization responsible for developing policies and procedures to prevent the emotional, physical, and sexual abuse of amateur athletes and for investigating reports of sexual abuse.

At the same time, increased awareness of what many see as a public health crisis has driven the issue of youth and athlete safety to the forefront of the US Olympic movement. This continuing shift in societal understanding of the potential for abuse within US sport and the actions by Congress have caused sporting organizations to reassess their abuse prevention policies. In response, the USOPC has updated its background check policy that all NGBs under its umbrella must adhere to.

USOPC Requirements and Search Components

By the end of 2019, all NGBs are required to implement policy to conduct background checks to create a safe environment for athletes and others associated with each NGB. Under recently amended USOPC policy, NGBs must administer background checks to any employee or other individual the NGB authorizes, approves, or appoints to (a) serve in a position of authority over athletes or (b) have regular contact with athletes.

After review of the USOPC policy and consultation with peer NGBs, a summary of which can be found below, US Sailing has determined that it is appropriate to require background checks of its race officers, judges, umpires and classifiers (collectively, "race officials"). This departure from previous organizational policy strengthens US Sailing's existing background check policy to conform to standard practices within the NGB community, which are also in line with broader societal expectations. US Sailing believes that this change will enhance the safety and welfare of the sailing community and protect the Association from legal liability.

US Sailing's background check vendor is Hire Image, LLC. All Hire Image background checks on behalf of US Sailing will include the following search components:

- Name and address history records
- Social Security Number validation
- Two independent Multi-Jurisdictional Criminal Database searches covering 50 states and the District of Columbia, Guam, and Puerto Rico

- Federal district courts searches and county criminal records searches covering all jurisdictions where an individual has resided during the past seven years
- Two separate sex offender registry database searches, multiple national watch lists, and US Center for SafeSport disciplinary records.

Full background checks will be required every 24 months, with an included 12-month interim check.

Internal Review Policies/Due Process Procedures

The following procedures were developed in consultation with US Sailing’s peer NGBs and with independent human resource professionals and are consistent with the principles of due process required by the Ted Stevens Olympic and Amateur Sports Act.

Initial certification: Candidates for initial certification must complete a background check before submitting an application for certification. This requirement is intended to protect the candidate’s privacy by preventing a certifying committee from knowing that an application has been submitted and then withdrawn, from which they could conclude that the applicant did not pass the background check.

Renewal certification: Candidates for renewal of certification must ensure their background check is current by initiating a new check promptly on receiving a renewal notification from US Sailing and Hire Image.

If a background check returns reportable information about a candidate for certification or re-certification, US Sailing will determine the candidate’s eligibility for association with the organization based on the following standards:

- A. Any disposition or resolution of a criminal proceeding other than an adjudication of “not guilty”¹ for any of the following criminal offenses will automatically preclude the candidate from consideration:
 - Felony² criminal offenses involving violence or a threat of or attempt at violence against a person
 - Felony or misdemeanor criminal offenses involving harm to a minor
 - Felony or misdemeanor criminal offenses involving sexual crimes including, but not limited to, rape, child molestation, sexual battery, lewd conduct, possession and distribution of child pornography, possession and distribution of obscene material, and prostitution or sex trafficking
- B. Registration on any sex offender list³ will automatically preclude the candidate from consideration.
- C. For other reportable information revealed by a background check, US Sailing will determine a candidate’s eligibility for association with US Sailing on a case-by-case basis.
 - Any disposition or resolution of a criminal proceeding other than an adjudication of “not guilty” for a criminal offense including, but not limited to, the following may preclude the candidate from consideration:
 - Drug-related offenses
 - Criminal offenses involving violence against a person not included in Section A. above
 - Stalking, harassment, blackmail, violation of a protection order and/or threats

- Destruction of property, including arson, vandalism, and criminal mischief
- Animal abuse or neglect
- Theft, misappropriation, fraud or similar, including cybercrime or identity theft
- Other felonies not described in section A. above
- When considering such information, US Sailing will be guided by the following considerations:
 - Could this conduct in the past reasonably be believed to place another person's safety in jeopardy in the present or future?
 - Would the conduct cause competitors or other officials to lack confidence in the integrity of the official?
 - Would the conduct cause competitors or other officials to lack confidence in the official's ability to perform the functions of his or her position?
 - Does the conduct indicate a pattern of behavior that suggests the person may not meet the ethics or judicial temperament required for a US Sailing race official?
 - The time elapsed since the occurrence of the conduct.
 - Did the conduct occur when the applicant was a minor?
 - The bearing, if any, the conduct has on the individual's ability to perform the necessary functions of his or her role or otherwise be a representative of U.S. Sailing.
 - Any information produced by the individual, or produced on behalf of the individual, with respect to the individual's rehabilitation and good conduct.
- D. US Sailing may delay or suspend certification while a case involving any of the above conditions awaits final disposition.

For each background check initiated by US Sailing, US Sailing's Compliance Manager will receive a report indicating either that:

- (1) the background check is clear of any reportable information, or
- (2) the background check identified reportable information.

If a background check is clear of reportable information, US Sailing will proceed with the certification process.

If a background check yields reportable information, the US Sailing Compliance Manager, together with US Sailing's independent human resource professional, will make an initial determination as to the candidate's eligibility for certification. Unless otherwise stated below, the Compliance Manager and the HR professional will not share the results of a background check with any other person.

If the Compliance Manager and the HR professional determine that the results of a background check disqualify the candidate from associating with US Sailing, a pre-adverse action notification will be sent informing him or her of US Sailing's decision, inviting him or her to correct any substantive error and/or to provide additional information explaining or mitigating the disqualifying incident(s) or charge(s), and advising him or her of the right to challenge the decision. The candidate shall have 10 business days to submit any additional information to the US Sailing Compliance Manager. If the candidate chooses to provide such additional information, the Compliance Manager and the HR professional, and if appropriate the relevant US Sailing department director, will determine whether the candidate's explanation provides grounds for reversal of the initial determination. If the report and additional information are shared with the relevant US Sailing staff director, it will be done without disclosing the candidate's identity to the director. The candidate will be notified in writing of a final determination.

The official or candidate may challenge a decision by US Sailing to decline, suspend, or terminate certification based on reportable information in a background check by submitting a grievance to the US Sailing Review Board. Any matter that comes before the Review Board will be handled pursuant to Section 15.04 of the US Sailing Regulations.

Both US Sailing and Hire Image exercise the greatest caution to keep members' personal information secure. The Hire Image Screening System is SOC 2 Certified and has met the security requirements for Experian Independent 3rd Party Assessment (EI3PA). Personally identifiable information such as date of birth and social security number is redacted in reports provided to US Sailing. Report information is made available to only two people at US Sailing; if the relevant staff director is consulted, he or she will not be informed of the applicant's identity. While US Sailing maintains a library of cases and decisions to ensure consistency in decision-making, no personally identifiable information will be included in the case descriptions.

Peer NGB Policies

US Sailing surveyed peer NGBs on their policies on background checks for officials. Of the 18 NGBs that replied, all but one consider that officials have "regular contact" with athletes or serve in "a position of authority" over athletes and require background checks for all officials.

Only two of the 18 NGBs reported that their officials are purely volunteers who receive no compensation for their work. Of the rest, 10 are paid for all officiating work and six receive at least some reimbursement for expenses. Paid officials receive compensation from a variety of sources, including the competition organizer (6) or the NGB itself (3). In most cases, the amount of compensation varies by the level of the competition.

Half of the responding NGBs require the officials themselves to pay for the required background checks (including by folding the cost into an "officials membership"), while seven NGBs paid for the background check and two reported that the level of competition determined who assumed the cost.

*Adopted by the US Sailing Board of Directors
November 14, 2019*

¹ 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.

² For purposes of these procedures, the term "felony" shall refer to any criminal offense punishable by imprisonment for more than one year.

³ Any participant who 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.