



**Procedure Name:** Background Check Policy Procedures

**Governing Policy:** USA Boccia Background Check Policy

**Date of Issuance:** April 2021

**Policy Owner:** USA Boccia

Applies to: USA Boccia Board of Directors, USA Boccia Staff, USA Boccia Certified Instructors, USA Boccia Club Leaders, USA Boccia Referees, USA Boccia Committee and Task Force Members, Independent Contractors, Volunteers, and others authorized or credentialed by USA Boccia<sup>1</sup>

**Purpose:**

These procedures set out the background check search components and the process for conducting background checks, interpreting background check results, communicating with individuals regarding their background check results, and reporting to USA Boccia all background check results.

*NOTE: Due to reporting and other limitations, information from a background check should not be relied upon as the sole basis for selection, but rather an important indicator in the overall selection process.*

**Statement of Procedure:**

I. Authorized Background Check Organization

- a. The National Center for Safety Initiatives (NCSI) shall conduct all background checks for USA Boccia. 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 co-chair of the Judicial Committee for USA Boccia all background check results. NCSI will also be responsible for complying with the Fair Credit Reporting Act (“FCRA”), storage of background check records, and

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<sup>1</sup> This includes individuals representing USA Boccia at competitions including, but not limited to, international competitions.

maintaining the confidentiality of information obtained in the background check process.<sup>2</sup> USA Boccia has entered into a contract with NCSI to allow use of the NCSI website and will conduct a bi-annual review of NCSI to ensure its needs and the needs of all its constituents are being met.

## II. Individual Self-Registration Procedure

- a. NCSI will provide the Executive Director of USA Boccia with a link to the NCSI website, so that USA Boccia 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 USA Boccia, they have the affirmative duty to disclose their criminal history. 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 USA Boccia (hereinafter "Responsible Sport Organization"), another sport organization, or the U.S. Center for SafeSport. In such an event, the individual must notify the cochairs of the Judicial Committee ([judicialcommittee@usaboccia.org](mailto:judicialcommittee@usaboccia.org)) at USA Boccia, in writing and within 24 hours.
- c. USA Boccia shall be responsible for ensuring that background checks are conducted on the individuals outlined in the Application Section of the Background Check Policy (Section I).

## III. Background Check Search Components

- a. **Full Background Checks.** All full background check screens will include at least the following search components:
  - i. Social Security Number validation;<sup>3</sup>
  - ii. Name and address history records;
  - iii. Two independent Multi-Jurisdictional Criminal Database searches covering 50 states plus DC, Guam, and Puerto Rico;
  - iv. Federal District Courts search for each name used and district where the individual currently lives or has lived during the past seven years, going back the length of time records are available and reportable;

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<sup>2</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 USA Boccia.

<sup>3</sup> Or suitable alternative identification verification process as determined by the background check vendor.

- v. County Criminal Records for each name used and county 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;
- vi. National Sex Offender Registry database search of all available states, plus DC, Guam, and Puerto Rico;
- vii. Multiple National Watch Lists;
- viii. SafeSport Disciplinary Records;<sup>4</sup>
- ix. Comprehensive International Records search for individuals who have lived outside of the United States for six consecutive months in any one country, during the past seven years;<sup>5</sup>
- x. Motor Vehicle Records of at least a 3-year history in the state of licensure (if driving is required for position);
- xi. Education Verification and final degree received (one time only, on initial screening if required for position; USA Boccia Staff only)
- xii. Credit History Check (for USA Boccia Executive Team members, USA Boccia employees who work in Finance or Audit, and-others authorized or credentialed by USA Boccia)
- xiii. Professional License/Certification Verification for certain medical roles.<sup>6</sup>

**b. Supplemental Background Checks.** All supplemental off-year background check screens will be conducted using at least the following search components:

- i. Multi-Jurisdictional criminal database covering 50 states plus DC, Guam, and Puerto Rico
- ii. Sex Offender Registry database searches of all available states, plus DC, Guam, and Puerto Rico; and
- iii. SafeSport Disciplinary Records

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<sup>4</sup> Until the process is automated, this shall be accomplished by conducting individualized searches of the SafeSport Disciplinary Records on the SafeSport website for individuals covered under the Background Check Policy.

<sup>5</sup> International record checks vary from country to country. The background check vendor will provide comparable search components depending on the laws of that specific country.

<sup>6</sup> License and/or certification verifications will be required for individuals in the following medical roles: Medical Doctor (MD), Doctor of Osteopathic Medicine (DO), Chiropractor (DC), Physician Assistant (PA), Acupuncturist, Massage Therapist, Physical Therapist, and Certified Athletic Trainer.

#### IV. Background Check Screening

- a. NCSI will provide a “Red Light/Green Light” determination for each background check to the co-chairs of the Judicial Committee for USA Boccia. 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 USA Boccia may also be contacted.
- b. A reportable record or disclosure that contains a disposition or resolution of a criminal proceeding, other than an adjudication of not guilty,<sup>7</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 USA Boccia’s policies and procedures to determine the individual’s level of access and involvement with regard to athlete interactions, USA Boccia facilities, and Delegation Events (as defined below):
  - i. Any felony;<sup>8</sup> and
  - ii. Any misdemeanor involving:
    1. 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>9</sup>
  - iii. Any drug related offenses;

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<sup>7</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>8</sup> For purposes of these procedures, the term “felony” shall refer to any criminal offense punishable by imprisonment for more than one year.

<sup>9</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.

- iv. Harm to a minor or vulnerable person, 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;
- v. Violence against a person, force, or threat of force (including crimes involving deadly weapons and domestic violence);
- vi. Stalking, harassment, blackmail, violation of a protection order, and/or threats;
- vii. Destruction of property, including arson, vandalism, and criminal mischief; and
- viii. Animal abuse, cruelty, or neglect.

#### V. Driving Privileges

- a. For purposes of being authorized to transport people in any motor vehicle for business purposes, a record that contains the following information will be flagged as a Red Light Review and subject to review in accordance with USA Boccia's policies and procedures:
  - i. No valid driver's license (expired or lack of license);
  - ii. Suspended or revoked driver's license;
  - iii. More than two moving violations and/or accidents in the prior two years;
  - iv. A conviction for a major moving violation within the prior two years, including, but not limited to: DUI/DWI, possession of an open container, any drug-related motor vehicle incident, leaving the scene of an accident, assault (in any form) by use of a motor vehicle, and reckless driving (willful or wanton disregard for safety of persons or property in any form);
  - v. Pending traffic offenses; and
  - vi. An individual being under 21 years of age.
- b. If following USA Boccia review, the determination is that the individual is not approved for driving privileges, then the individual is not authorized to drive or operate any vehicle (personal, rental, or USA Boccia fleet vehicle) to transport athletes, Delegation members, volunteers, or members of the organizing committee.

#### VI. 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. USA Boccia 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 USA Boccia

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.

## VII. Background Check Procedures

- a. The co-chairs of the Judicial Committee at USA Boccia will be notified of Green Light and Red Light status. Individuals will receive two separate Green Light/Red Light notifications: one for their criminal check and one for their driving history check. In the event of a Red Light, NCSI will contact the co-chairs of the Judicial Committee for USA Boccia to request authorization to send an adverse action letter on behalf of USA Boccia, and if authorized, will send an adverse action letter to the individual. On request, NCSI will provide additional information to support USA Boccia's review and decision process.
- b. After receiving notification of a Red Light Review, the USA Boccia Review Panel will determine if and to what degree the individual will be: (a) affiliated with USA Boccia, (b) permitted to participate in a Delegation Event, or (c) granted driving privileges in accordance with the Background Check Policy and these procedures.
- c. Responsible Sport Organizations are required to notify USA Boccia via email at [judicialcommittee@usaboccia.org](mailto:judicialcommittee@usaboccia.org) of any decision reached by the Responsible Sport Organization, which has the effect of allowing an individual covered by the Responsible Sport Organization's Background Check Policy to reside, train or compete at a Paralympic Training Center or participate in the Paralympic Games, international sporting events, and USA Boccia Nationals as designated by USA Boccia (collectively the "Delegation Events"), if the individual's background check screen was flagged for any disposition or resolution of a criminal proceeding, other than an adjudication of not guilty for any of the below crimes:
  - i. Any felony involving:
    1. Violence against a person within the previous ten (10) years;
    2. Violent crimes involving weapons (including armed robbery and aggravated assault with a weapon) within the previous ten (10) years; and
    3. Animal abuse, cruelty or neglect;
    4. As well as any felony or misdemeanor involving:
      - a. All sexual crimes and criminal offenses of a sexual nature to include, but not limited to: rape, child molestation, sexual battery, lewd conduct, possession or distribution of child pornography, possession and distribution of obscene

material, and any sex offender registrant (excluding prostitution, indecent exposure, and public indecency);

5. Drug offenses including: drug distribution, intent to distribute, manufacturing, trafficking, or sale within the previous 7 years (excluding crimes for drug use or possession); and
6. Harm to a minor or vulnerable person, including, but not limited to: offenses such as child abandonment, child endangerment/neglect/abuse, contributing to the delinquency of a minor, providing alcohol to a minor, and DUI with a minor.

#### VIII. Background Check Review Panel

- a. Preliminary Review: If during a review of information gathered during a background check, or if USA Boccia receives information (self-report or reported by others) that could be interpreted as a red-light finding, the Judicial Committee may conduct a preliminary review when necessary for individuals applying for positions or individuals who are already members of the organization to determine whether the individual has committed actions leading to a conviction of a criminal charge and should be disqualified, suspended, or removed from the organization. This preliminary review will be conducted by the Executive Director of USA Boccia. If the Executive Director determines that an individual should be suspended or lose their membership, for any period of time, the matter will immediately proceed to the Review Panel appointed by the co-chairs of the Judicial Committee.
  1. Individuals that are applying for positions within USA Boccia who are found to have criminal convictions noted in the information uncovered from a background investigation will immediately be disqualified for that position or admittance into the USA Boccia organization.
  2. Individuals that are currently serving in any capacity with USA Boccia and through self-disclosure or red-light finding is identified as having committed a violation of the USA Background Check Policy in regard to criminal offenses will immediately be suspended pending final determination of a criminal proceeding or the individual requests to be removed from the organization. Once a determination of non-guilt has been made in a criminal proceeding the suspension will be lifted and the individual will be allowed to resume the duties of their position if they choose to do so. If a determination of guilt is found, the Judicial Committee will convene a Review Panel to determine the status of the individual within the organization. (See Article VIII, Section C, Review Panel).

- b. Filing Fee: No filing fee is required to proceed in front of the Review Panel.
- c. Review Panel: The Review Panel will be chosen by the co-chairs of the Judicial Committee and will consist of unbiased individuals. The members of the Review Panel will meet to conduct the hearing within sixty (60) days after being appointed to the panel. The chair of the Judicial Committee will determine if more time is required to prepare for the hearing and, if appropriate, allow for more time. The chair of Judicial Committee will also determine whether to expedite the Review Panel hearing in order to resolve a matter relating to training or a competition that is scheduled. In such cases the Review Panel may render an expedited determination.

The Review Panel will consist of the following individuals:

1. USA Boccia Representative (member of the Judicial or Ethics Committee, Board Member, Executive Director)
2. Legal Counsel (if necessary)
3. Co-Chair of Judicial Committee or an appointed Judicial Committee Member
4. Independent Member \*\*
5. Elite Athlete Representative

\*Review panel must have an odd number of members

\*\* Article 7.7, Independence, of the USA Boccia Bylaws August 2020 states, “The independent member shall have no material relationship to USA Boccia either directly or indirectly. He or she shall have no personal interest in the outcome of the review panel”.

- d. Hearing: The Review Panel will conduct a hearing and make a determination in the self-disclosure or red-light finding of an individual. The purpose of this hearing will be to determine if there is credible evidence that the person committed a crime and should not represent USA Boccia.

The individual will be notified of a specific date and time within sixty (60) days of the appointment of the Review Panel so he or she may participate if they wish. Unless the Review Panel requires the individual to attend the hearing in person, the individual may appear by telephone conference call. The individual has the right to be represented by legal counsel at the hearing



At the hearing, the individual will be allowed to present any evidence or argument that he or she wishes the Review Panel to consider. The Review Panel may require that documentary evidence be presented prior to the hearing and that the names of any witnesses be disclosed prior to the hearing. The Review Panel shall also seek any input from USA Boccia Board of Directors and outside individuals/organizations as it deems relevant.

- e. Interim Measures: USA Boccia Board of Directors may impose interim measures pursuant to Article II to ensure the safety and wellbeing of others. Suspension refers to temporary removal (as from office or privileges) until the Review Panel makes a final determination. This means the individual is not allowed to participate in competition and is denied any and all interactions with the USA Boccia organization. During this period the individual, through themselves or their counsel, will communicate with the USA Bocci Executive Director or co-chair of the Judicial Committee.
- f. Determination: A determination will be made based on a majority vote of the Review Panel within sixty (60) days of appointment. The Review Panel will make one of the following decisions upon completion of the hearing and a review of the evidence. The Review Panel, through majority vote, can exonerate the individual or revoke the individual's membership within the organization. The decision will be recorded and kept on file with USA Boccia and forwarded to the U.S. Paralympic Committee.

The Review Panel has the discretion to deny any individual from participation or membership if it finds, in good faith, that permitting an individual with a self-disclosure of a criminal charge or red-light finding to participate is inconsistent with the stated purpose of the USA Boccia Background Check Policy. (See the Addendum for a copy of the USA Boccia Background Check Policy)

In rendering its finding, the Review Panel shall consider the following when making a determination:

1. The legitimate interest of USA Boccia in providing a safe environment for athletes and other individuals;
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

or otherwise be a representative of USA Boccia and/or the Paralympic Movement;

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 other individuals; and
  9. Any other information, which in the determination of the Review Panel, would bear on whether or not the individual should represent USA Boccia and/or the U.S. Paralympic Movement.
  10. Upon the request of USA Boccia Board of Directors or the individual, and if it is necessary to expedite the proceeding in order to resolve a matter relating to training or a competition that is scheduled, the Review Panel may render an expedited determination.
- g. Appeal: The Review Panel will communicate its finding to the individual and to the President of the Board of USA Boccia. If the individual disagrees with the finding of the Review Panel, they may appeal the decision by filing a demand for arbitration with the American Arbitration Association (AAA) within thirty (30) days of the Review Panel's decision. A decision rendered by the AAA shall be final and binding on all parties.

During the Appeals process, the individual will remain on suspension until the AAA has made its final and binding decision.

#### IX. Payment Information

- a. In cases where USA Boccia directly assigns or nominates an individual to serve in a Games role or to be a member of the official Games Delegation, payment for the background check will be the responsibility of USA Boccia. In all other instances, payment for the background check will be arranged by the Responsible Sport Organization, partner program, or USA Boccia.