

**City of Saratoga Springs
Parks and Recreation**

VOLUNTEER POLICIES

1. INTRODUCTION:

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. The Policy requires criminal background checks for Recreation Department employees and volunteers over the age of eighteen (18). The list of disqualifying charges (whether pending or otherwise) or convictions is listed below in Section 4 (hereinafter referred to as "disqualifying offenses"). Use of the term "dismissed with prejudice" herein shall also include charges that were dismissed without prejudice if and only if the applicable prosecution agency clearly indicates in writing that the charges will not be brought again in the future.

2. CRIMINAL BACKGROUND CHECK IMPLEMENTATION

Prior to employment or voluntary service, criminal background checks are mandatory for all Recreation Department employees and volunteers. All Recreation Department employees and volunteers are covered by this Policy regardless of whether they are employees or volunteers.

Prior to beginning their employment or volunteer service with the Recreation Department, all prospective employees and volunteers are required to undergo a criminal background check. All employees and volunteers will be required to sign a written consent form allowing the City to order an individual criminal background check.

All signed consent forms for prospective employees must be turned into the Human Resource ("HR") Department. All signed consent forms for volunteers must be turned into the Recreation Director or designee no later than the designated due date.

Failure to provide a completed consent form by the deadline will automatically disqualify the employee or volunteer from employment or service.

Employees and volunteers who discontinue their employment or volunteer service for longer than 6 weeks will be required to sign a new consent form for another background check to be completed.

New criminal background checks will be conducted for continuing employees and non-coaching volunteers every 5 years. However, criminal background checks will be conducted every two years for all volunteer head coaches and all volunteer assistant coaches assigned to any Recreation youth team and/or program.

When a new background check is required, the employee or volunteer shall be required to sign an additional background check consent form within 5 business days of the date it is requested and prior to the Recreation Department running the background check. If a volunteer fails to meet this

deadline, the volunteer's service shall terminate automatically. If an employee fails to meet this deadline, the City shall consider termination proceedings pursuant to the City's Personnel Manual and Utah Code 10-3-1105 – 1106.

The Recreation Department reserves the right to conduct a background check of any recreation volunteer or employee at any time upon reasonable belief the employee or volunteer has committed or been charged with a new disqualifying offense.

During the term of service an employee or volunteer, if any criminal charge is brought through citation, Information, Indictment or other charging document, against such employee or volunteer that are a disqualifying offense, the employee or volunteer is required to immediately disclose the nature of the charges to the Director. Failure to notify the Director within 24 hours of such a criminal charge being brought against the volunteer will result in the volunteer's service terminating immediately. For an employee, failure to notify the Director within 24 hours of such a criminal charge being brought against the employee will result in the City considering termination proceedings pursuant to the City's Personnel Manual and Utah Code 10-3-1105-1106.

3. BACKGROUND SCREENING PROCESS AND HANDLING OF INFORMATION

City administration will be responsible for selecting a reporting agency or method to conduct criminal background checks for volunteers. The Recreation Director will administer the process of criminal background checks for volunteers. The HR Department will administer the process of criminal background checks for employees.

The HR Department is responsible for keeping the results of criminal background checks in a safe and secure location and keeping them for a time period specified in the City's retention policy or applicable law, whichever is longer. The HR Department 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 Recreation employees are eligible for prospective or continuing employment.

a. Prospective employees

The HR Department will administer the process of criminal background checks for prospective employees. If a criminal background check for a prospective employee includes any disqualifying offense, the HR Department will receive the background check from the reporting agency and will determine if there is a disqualifying offense.

Upon receiving notification of a disqualifying offense, the HR Department will disqualify the individual in accordance with these Policies, and, therefore, the individual will not be allowed to be employed. The individual who has been disqualified will receive written notification informing the individual of disqualification and of the method for disputing the results of the criminal background check and the right to appeal.

If a background check indicates that a prospective employee has pending criminal charges for a disqualifying offense, the prospective employee may not be hired until there is a resolution of the

charges resulting in dismissal with prejudice or acquittal. Under no circumstances will a prospective employee be hired if the prospective employee has been found guilty, entered a plea of guilty or no contest, been found guilty in absentia or has pending charges of a disqualifying offense.

If an employee subsequently has any criminal charges brought against them that are disqualifying offenses, the employee is required to immediately disclose the charges to the Recreation Director. The Recreation Director and City Attorney's office will work together to determine if the employee will be reassigned, terminated, suspended with pay, or suspended without pay until there is a resolution of the charges in favor of dismissal with prejudice or acquittal. If the proceeding results in dismissal with prejudice or acquittal the employee may resume employment. If the charges are confirmed, the City will consider termination pursuant to the City's Personnel Manual and Utah Code 10-3-1105-1106. If lawfully permissible pursuant to the City's Personnel Manual and Utah Code 10-3-1105-1106, and after following all applicable due process requirement, an employee shall not be allowed to continue employment if an employee has been found guilty, entered a plea of guilty or no contest, or been found guilty in absentia of a disqualifying offense.

b. Prospective volunteers

The Recreation Director will administer the process of criminal background checks for prospective volunteers. If a background check for a prospective volunteer includes any of the listed disqualifying offenses, the Recreation Director will receive notification that the background check revealed a disqualifying offense. Upon receiving notification, the Director will disqualify the individual from volunteer service. The individual who has been disqualified will receive written notification informing the individual of their disqualification and of the method for disputing the results of the background check and their right to respond in writing. Under no circumstances will an individual be allowed to serve as volunteer if the individual has been found guilty, has entered a plea of guilty or no contest, has been found guilty in absentia, or has pending charges of disqualifying offense.

If a background check indicates that a prospective volunteer has criminal charges pending, the prospective volunteer will be disqualified from service until there is a resolution of the charges in the form of a dismissal with prejudice or acquittal.

Should a volunteer subsequently have any criminal charges brought against them for a disqualifying offense during their term of service as a volunteer, they are required to immediately disclose the nature of the charges to the Recreation Director and they will be disqualified from serving until there is a resolution of the charges in favor dismissal with prejudice or acquittal. If the proceeding results in dismissal with prejudice or acquittal, the volunteer may resume service. If the charges are confirmed, the volunteer will be dismissed and not allowed to continue service. Under no circumstances will a volunteer be allowed to continue service if a volunteer has been found guilty, or entered a plea of guilty or no contest.

4. DISQUALIFICATION OFFENSES

An employee or volunteer will be disqualified and prohibited from serving if the person has been

found guilty of the crimes listed below. Guilty means the person has been found guilty following a trial, entered a guilty plea, entered a no contest plea or was found guilty in absentia, regardless of the adjudication. Pending means the person has been charged, whether by citation, indictment, information, or other charging document but a resolution of those charges has not been reached. This policy does not apply if criminal charges resulted in an acquittal or dismissal with prejudice. This policy shall apply if the charges resulted in being dismissed due to a mistrial unless the prosecuting attorney indicates in writing that new charges will not be brought.

- a. 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
- b. All felonies that constitute offenses against the person regardless of the amount of time since the offense. Examples included, but are not limited to: criminal homicide, murder, automobile homicide, child abuse homicide, manslaughter, homicide by assault, aggravated assault, mayhem, kidnapping, human trafficking and robbery.
- c. Any crimes involving children, regardless of the amount of time since the offense.
- d. All felony offenses other than those against the person or sexual offenses within the past 10 years. Examples include, but are not limited to: drug offenses, theft, embezzlement, fraud, arson and burglary.
- e. All misdemeanors that constitute offenses against the person within the past 7 years. Examples include but are not limited to simple assault, domestic violence, and hit and run.
- f. All misdemeanor drug and alcohol offenses within the past 5 years or multiple instances of such offenses in the past 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.
- g. Any other offense with the past 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 reasonable discretion of the Recreation Department to disqualify an employee or volunteer when, in the sole opinion of the Recreation Department after consultation with City Administration, City Attorney, and HR Department, a charge or conviction is of such a nature that the employee or volunteer has a propensity to endanger the City, Recreation Department, public or program participants.

5. CORRECTING ERRORS

The employee or volunteer is responsible for contacting the reporting agency and taking

appropriate action to have the results of a criminal background check report corrected if he or she believes information was reported in error. The City and the Recreation Department are not responsible for errors or omissions that may be reported on criminal background checks.

6. RESPONDING TO AND NOTIFICATION OF DISQUALIFICATION DECISIONS

The City shall follow the following procedures for notification of disqualification decisions and opportunities to respond in writing or appeal decisions. This subsection 6 is intended to comply with Utah Code 10-3-1105-1106, and the City's Personnel Manual ("Personnel Manual"). In the event of a conflict, the Utah Code provisions or Personnel Manual shall take precedence.

- a. Prospective employees. Any prospective employee or applicant who is disqualified based on their back ground check will be notified that their offer letter has been rescinded and why. The prospective employee or applicant may respond in writing to the decision. The City may, but is not required to, reconsider the decision to disqualify the prospective employee or applicant.
- b. An existing employee with appeal rights pursuant to the City's Personnel Manual and Utah Code 10-3-1105-1106 who is disqualified pursuant to this policy shall be entitled to a pre-determination hearing, pursuant to the City's Personnel Manual, whether to terminate the existing employee. The City shall send the existing employee notice of the pre-determination hearing and give the employee an opportunity to respond in writing and at the hearing to the decision. The City may, but is not required to, reconsider the decision to terminate the existing employee and shall at all times follow Utah law and the City's Personnel Manual in making a decision to terminate.
- c. Existing employee with no appeal rights. For an existing employee with no appeal rights pursuant to the City's Personnel Manual and Utah Code 10-3-1105-1106, the City shall notify the employee of the decision and provide the employee with an opportunity to respond in writing to the decision of disqualification and termination. The City may, but is not required to, reconsider the decision to disqualify the existing employee.
- d. Any volunteer applicant who is disqualified shall be notified of the disqualification decision and provided an opportunity to respond in writing.

Adopted: MM/DD/YYYY