Risk Management Background Check Policy

I. Purpose

A. In order to preserve the safety and welfare of youngsters involved in soccer and served by the NYSWYSA and its members, the purposes of this policy are to:

1. Obtain disclosure and release information from and to perform background checks on all NYSWYSA personnel and the personnel of NYSWYSA members.

2. Determine whether individuals who desire to be NYSWYSA personnel or the personnel of NYSWYSA members are qualified to provide services for the NYSWYSA or NYSWYSA members.

3. Ensure that the NYSWYSA is in compliance with US Youth Soccer Bylaw 214, Section 2, regarding the establishment of a Risk Management Program.

B. The NYSWYSA will not permit individuals to work with soccer youngsters if they have certain convictions (see section VI) or have demonstrated conduct incompatible with services to or the care of youngsters.

II. Authority and Application

A. Section 2 of US Youth Soccer Bylaw 214 requires US Youth Soccer and the NYSWYSA and all of its other State Associations to establish and monitor a Risk Management Program within its jurisdiction. That program must include, as a minimum:

1. The use of Employment/Volunteer Disclosure Statements for all volunteers, employees, coaches, and program administrators.

2. The identification of a Risk Management Coordinator and an alternate for the organization.

B. In addition to US Youth Soccer Bylaw 214 and in compliance with those bylaw requirements, the NYSWYSA affirms its commitment to the safety and well-being of its youngsters by approving a requirement that background checks be performed on:

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1. NYSWYSA personnel
2. NYSWYSA members' personnel

C. This policy applies to all NYSWYSA personnel and the personnel of NYSWYSA members. For the purposes of this policy, "personnel" includes, but is not limited to, all coaches, assistant coaches, trainers, other team officials, board members, staff, referees, and volunteers, whether paid or unpaid. The NYSWYSA Board of Directors shall, in conjunction with the NYSWYSA Risk Management Committee, reserve the right to determine any additional positions that may be subject to this policy.

D. A NYSWYSA Risk Management Committee shall be designated by the NYSWYSA Board and include the NYSWYSA Risk Management Coordinator.

III. Disclosure and Background Checks

A. The NYSWYSA requires that all NYSWYSA personnel and the personnel of members submit certain personal information (see table below) that shall be used to assist with a background check. No individual will be permitted to participate in NYSWYSA activities if all information requested is not provided.

Personal Information
Name *(Legal Name)*
Address
City/State/Zip
Home Phone
Work Phone
Date of Birth
Social Security Number
Driver's License Number
NYSWYSA/League/Club/Team Affiliation
Previous Affiliation if less than 3 years
Position within NYSWYSA, league, club, team or referee unit

B. The NYSWYSA requires that background checks be performed on all NYSWYSA personnel and the personnel of NYSWYSA members.

C. Individuals will be permitted to begin participation pending completion of a satisfactory background check and approval by the NYSWYSA Risk Management

Coordinator or Clerk. Individuals once approved are to carry a properly executed Risk Management Pass whenever they are acting in an official capacity with minors. A properly executed pass consists of the state issued Risk Management pass, signed by the individual, bearing a photo of the individual, and laminated.

D. All background checks should be completed within 30 days of the election or selection of an individual to a position in the NYSWYSA or a NYSWYSA member. Background checks on NYSWYSA personnel and NYSWYSA member personnel must be performed at least every 2 years, with a new Risk Management Pass being issued every 2 years.

IV. Confidentiality and Notification of Reports

A. The background check reports must be kept strictly confidential. The NYSWYSA should limit the number of persons authorized to review or have access to the reports.

B. If an individual's background check report indicates a criminal conviction found in Section VI of this policy, Table of Convictions, a copy of that person's criminal conviction report received by the NYSWYSA must be sent to that individual for review and correction of information according to pre-established processes, which safeguard the person's right to know, and privacy.

C. If an individual's background check report received by the NYSWYSA indicates information that might require an explanation, that individual will be contacted and asked to provide additional information to assist in making a determination on their fitness to serve.

V. Disqualification

A. An individual <u>may</u> be disqualified from providing services to the NYSWYSA or a NYSWYSA member if the background check report shows that the individual has ever been convicted of any of the crimes of felony or misdemeanor level listed in Section VI, Table of Convictions, as may be amended, or equivalent offenses in another state , or the United States Code, and satisfies the guidelines provided under Section VII of this policy.

B. If a background check report discloses a criminal conviction, the Risk Management Coordinator for the NYSWYSA shall consult Section VI, Table of

Convictions, of this policy and make a determination on approval or denial. The Risk Management Coordinator can seek guidance from appropriate legal and civil authorities as well as seek council from the Risk Management Committee when making an approval/denial decision. Each situation will be considered on a case-by-case basis using the Guidelines listed in Section VII of this policy.

C. Any pending charges, felony or misdemeanor, set forth in Section VI, Table of Convictions, shall render the individual ineligible unless or until such charges result in a favorable disposition, including but not limited to, dismissal of the charge at any stage, adjournment in contemplation of dismissal, acquittal, or a court order setting aside a guilty verdict or vacating a judgment.

VI. Table of Convictions

A. **"Offenses against the Person involving physical injury, sexual conduct, restraint and intimidation" as defined by Title H of the Penal Law of the State of New York:**

1. Article 120 "Assault and Related Offenses";
2. Article 121 "Strangulation and Related Offenses";
3. Article 135 "Homicide, Abortion and Related Offenses";
4. Article 130 "Sex Offenses";
5. Article 135 "Kidnapping, Coercion, and Related Offenses".

B. **"Offenses involving damage to and intrusion upon property" as defined in Title I of the Penal Law of the State of New York:**

1. Article 140 "Burglary and Related Offenses";
2. Article 145 "Criminal Mischief and Related Offenses";
3. Article 150 "Arson".

C. **"Offenses involving theft" as defined by Title J of the Penal Law of the State of New York:**

1. Article 155 "Larceny";
2. Article 156 "Offenses involving computers";
3. Article 158 "Welfare fraud";
4. Article 160 "Robbery";
5. Article 165 "Other offenses relating to theft".

D. **"Offenses involving fraud" as defined by Title K of the Penal Law of the State of New York**:

1. Article 170 "Forgery and Related Offenses";
2. Article 175 "Offenses involving false written statements";
3. Article 176 "Insurance fraud";
4. Article 177 "Healthcare fraud";
5. Article 178 "Criminal diversion of prescription medications and prescriptions".

E. **"Offenses against public health and morals" as defined by Title M of the Penal Law of the State of New York**:

1. Article 220 "Controlled substances offenses";
2. Article 221 "Offenses involving marijuana";
3. Article 225 "Gambling offenses";
4. Article 230 "Prostitution offenses";
5. Article 235 "Obscenity and related offenses".

F. **"Offenses against public order, public sensibilities and the right to privacy" as defined by Title N of the Penal Law of the State of New York:**

1. Article 240 "Offenses against public order";
2. Article 242 "Offenses against service animals and handlers";
3. Article 245 "Offenses against public sensibilities";
4. Article 250 "Offenses against the right to privacy".

G. **"Offenses against marriage, the family, and the welfare of children and incompetents" as defined in Title O of the Penal Law of the State of New York:**

1. Article 255 "Offenses involving incest";
2. Article 260 "Offenses relating to children, disabled persons and vulnerable elderly persons";
3. Article 263 "Sexual performance by a child".

H. **"Offenses against public safety" as defined by Title P of the Penal Law of the State of New York:**

1. Article 265 "Fire arms and other dangerous weapons".

I. **Anticipatory offenses as defined by Title G of the Penal Law of the State of New York:**

1. Article 100 "Criminal solicitation";
2. Article 105 "Conspiracy";
3. Article 110 "Attempt";
4. Article 115 "Criminal facilitation".

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VII. Guidelines

A. Any personnel to whom this policy applies that is convicted of an "offense against the person involving physical injury, sexual conduct, restraint and intimidation", of a misdemeanor or felony level, as identified in Section A of the Table of Convictions (including sex offenses or anticipatory offenses, identified in Sections G and I of the Table of Convictions) within the prior 10 years shall be disqualified.

B. Any personnel convicted of a theft-related crimes or fraud as identified in Sections B, C, and D of the Table of Convictions of a misdemeanor felony level in the prior 10 years should be disqualified from any position involving the handling of funds or property.

C. Any personnel convicted of a controlled substances abuse offense as identified in Section E of the Table of Convictions within the past 10 years may be disqualified from any coaching position or any position that involves activities of youngsters. The nature of the conviction shall be reviewed by the NYSWYSA Risk Management Coordinator, and if deemed necessary, the Risk Management Committee to determine whether the individual shall be disqualified.

D. Discretion shall be exercised in a uniform manner, so that similar convictions and circumstances result in similar treatment.

E. Felony convictions of any nature are serious offenses and should be viewed with extreme caution. Misdemeanor convictions, particularly where remote in time, may be viewed with more leeway where the applicant's conduct since the conviction indicates rehabilitation or lack of risk to youngsters and the activities of the NYSWYSA or the NYSWYSA member.

F. All other convictions or pending charges (excluding crimes against minors) revealed through a background check should be considered on a case-by-case basis to determine whether or not the past conduct of the individual is compatible with working with youngsters. Risk Management Coordinators, in consultation with their respective Boards, shall determine whether such information disqualifies the individual. Factors that may be considered in deciding whether an individual should be permitted to participate include the following: the nature, and seriousness character of the past conduct, the age of the individual at the time of occurrence of

the criminal offense or offenses; how the past conduct relates to the particular functions of the individual's job; the length of time since the offending conduct; rehabilitation of the individual, if applicable; the individual's performance record; and how such conduct affects the integrity of the program; and the legitimate interest of NYSWYSA and its members in protecting the safety and welfare of participants, coaches, volunteers, parents, officials and spectators. The individual should be given an opportunity to provide evidence of any mitigating circumstances prior to a decision being made concerning the individuals qualifications for service. Consideration shall also be given to any Certificate of Relief from Disabilities or a Certificate of Good Conduct issued to the individual.

VIII. Appeals

A. Any individual who is disqualified by the NYSWYSA as a result of information received from the background check may appeal the decision. The appeal would be considered by the respective NYSWYSA Risk Management Committee, and if needed, through the NYSWYSA adjudication process.

B. Decisions regarding participation for NYSWYSA personnel will be made by the NYSWYSA Risk Management Committee, which may be appealed to the NYSWYSA Adjudication Committee.