

3-19. BACKGROUND CHECKS.

3-19.1. Purpose.

The purpose of this section is to provide for the safety of children engaged in youth sports organizations by taking steps to provide for the reasonable assurance that volunteers and paid employees for youth sports organizations have been subject to a criminal history record background check.

3-19.2. Definitions.

As used in this section, the following terms shall have the meanings indicated:

CRIMINAL HISTORY RECORD BACKGROUND CHECK — A determination of whether a person has a criminal record by cross-referencing that person's name and fingerprints with those on file with the Federal Bureau of Investigation, Identification Division and/or the New Jersey State Bureau of Identification in the Division of State Police.

EMPLOYEE — Any adult individual, of the age of 18 years or older, that is employed as a coach, trainer, staff or the like for a youth sports organization.

VOLUNTEER — Any adult individual, of the age 18 years or older, that volunteers their time as a coach, leader, instructor or the like for a youth sports organization. Any teacher, coach or volunteer in a school-based program shall not be subject to these provisions, but shall abide by the school's requirements with regard to background checks.

YOUTH SPORTS ORGANIZATION — Any organized program with participants that are Southampton residents under the age of 18 that utilize municipal facilities including buildings and/or fields of play on a regular or recurring basis for active sports programs. Youth sports organizations shall specifically include, but not be limited to, the Southampton Township Recreation Association ("STRA").

3-19.3. Submission to background checks.

- a. Mandatory background check. All individuals seeking to volunteer or work for youth sports organizations shall be required to submit to mandatory background checks, as defined above. This requirement shall apply to new volunteers and employees as well as existing volunteers and employees, and the requirement may not be waived by the youth sports organizations or any other

entity. This process shall be administered by the President of the youth sports organization or a committee of three members of the youth sports organization designated by the president "committee." Any committee formed by the president shall operate exclusively by unanimous vote of all three members. If the committee is established, the president transfers all authority to the committee and retains no right to independently rule on background check determinations.

- b. Process. All volunteers and employees shall be required to submit to a background check, which shall be conducted by the New Jersey State Police Department. If the volunteer or employee is found to be currently charged or previously convicted with any felony, or any misdemeanor involving fraud, misrepresentation, dishonesty, violence; or in any way involving a child; or involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes, except paragraph (4) of Subsection a of N.J.S.A. 2C:35-10; or such act that the Township determines are grounds for disqualification, then that person shall be deemed to have failed the local background check and shall not be permitted to volunteer in any way for a youth sports organization. If there is no such finding, then the volunteer will be deemed to have passed the background check and shall be permitted to volunteer or work for a youth sports organization.
- c. Appeal hearing. If an individual desiring to be a volunteer or employee for a youth sports organization fails the background check as indicated in writing by the State of New Jersey, the individual shall be notified of the failure in writing via certified and regular mail by the youth sports organization president or committee, if so established. The individual shall further be advised in writing of his or her right to a hearing before the president or the committee established by the president, which hearing must be requested within 20 days of the receipt of the notice. If a hearing is requested by the individual pursuant to this section, the president or the committee shall first state the reasons for the denial on the record, unless said denial is made exclusively on a negative response from the State of New Jersey, and the individual shall thereafter be permitted to state his or her reasons as to why they should still be permitted to be a volunteer or be a paid employee of the youth sports organization. The president or the committee shall thereafter render a decision on the individual's appeal and may either permit the individual to be a volunteer or employee or reject the individual's appeal. The

president or the committee's decision shall, within 10 days after the hearing, be reduced to writing and provided to the potential volunteer and the Township Clerk and mailed certified and regular mail to the individual. If the individual remains dissatisfied with the decision of the president or committee it shall have the right to appeal to the Township Committee using the same timelines identified herein. As part of the notice to the Township Committee, the aggrieved volunteer shall submit all applicable paperwork, including but not limited to, any correspondence from the state, any writings to or from the president or committee and a copy of the individual's criminal history record. A hearing before the Township Committee shall be held in open session. The Township Committee may deny the application exclusively on procedural grounds if the individual fails to provide a complete and accurate criminal history record.

- d. Youth sports organization obligations. All youth sports organization officers or leaders are required to make all reasonable efforts to comply with the requirements of this section. It is the responsibility of the youth sports organization to coordinate with the New Jersey State Police and the Municipal Clerk to ensure annual background checks are being administered in compliance with this section. The youth sports organization, through a designated officer or leader, shall file an annual roster of volunteers and employees that are required to participate in the background check procedures of this section. The youth sports organization shall sign the roster certifying the accuracy and completeness of the roster and volunteers' and employees' names.

The youth sports organization shall maintain records including the names of all volunteers and employees and the date of their last background check. These records shall be disclosed annually to the Township Clerk to ensure that all volunteers and employees are current with regard to the background check requirements. The Township Administrator may annually audit the youth sports organization to ensure compliance with this section.

In the event that youth sports organization already has a background check policy and procedure in place, the Township will accept the results from the administration of that policy, provided the policy and results are disclosed to the Township and the Township is satisfied that the policy and procedures are sufficient to satisfy the standards and purpose of this section.

3-19.4. Written consent.

- a. Written consent. Each person seeking to participate in a youth sports organization as a volunteer or employee shall execute a written consent in favor of both the youth sports organization and the Township of Southampton, its agents, servants and employees, authorizing said investigation, releasing the Township, and its agents, servants and employees from any liability arising from same, and holding them harmless. Failure to submit to said investigation will disqualify any such person from serving in the youth sports organization.
- b. Interim status. When a person has submitted written consent, they shall be provided interim status to engage in volunteering or employment while awaiting the results of the background check, provided the person certifies that they have no reason to believe that they were found guilty of a crime that would result in their disqualification from service under the terms of this section. Interim status shall be sufficient only until such time that the results of the background check are obtained.

3-19.5. Frequency of background checks. [Amended 2-17-2015 by Ord. No. 2015-3]

A background check administered under the provisions of this section shall be valid for five years. At the expiration of five years, the volunteer or employee must undergo a new background check in order to continue to serve the youth sports organization.

3-19.6. Limitations on access and use of criminal history background information.

- a. Limitation on access. Access to criminal history record information for non-criminal justice purposes, including licensing and employment, is restricted to authorized personnel of the Township of Southampton and the applicable youth sports organization, on a "need to know" basis, as authorized by federal or state statute, rule or regulation, Executive Order, Administrative Code, local ordinance or resolution regarding obtaining and dissemination of criminal history record information obtained under this ordinance.
- b. Limitation on use. The Township and the youth sports organizations shall limit their use of criminal history record information solely to the authorized purpose for which it was obtained, and criminal history record information furnished shall not be disseminated to persons or organizations not authorized to receive the records for authorized purposes. Any persons

violating federal or state regulations governing access to criminal history record information may be subject to criminal and/or civil penalties. The results shall not be subject to public disclosure and shall be retained only for such period of time as is necessary to serve their intended and authorized purpose.

Township officials with access to the criminal history record information shall be limited to the following: Committee, Solicitor, Administrator, Clerk, and Deputy Clerk, and any other official specifically authorized by the Administrator, provided they are a confidential employee and the Administrator determines their involvement is necessary or useful in carrying out the terms and intentions of this section.

3-19.7. Penalties.

- a. Any person, firm, corporation, association or legal party whatsoever who shall violate, or authorize or procure a violation, or cause to be violated, any provision of this section shall upon conviction thereof, be punishable by a fine not to exceed \$2,000.
- b. Upon a determination that a youth sports organization knowingly fails to follow Subsection 3-19.3d of this section, the Township shall ban the youth sports organization from receiving public funds for a period of three fiscal year budgets.