

Background Check Determination and Appeals Process Policy

This Background Check Determination and Appeals Process Policy (the “Process Policy”) shall be used for the application of Background Check disqualifiers and the appeal of Background Checks pursuant to the U.S. Figure Skating Background Check Disqualifiers Policy (“Disqualifiers Policy”).

I. Background Check Disqualifiers Determination Process

A “red light” Background Check status prohibits a person from participating in roles that require a “green light” finding. A person may receive a “red light” finding on a Background Check through two avenues: 1) through NCSI’s background screen results, or 2) through information discovered by U.S. Figure Skating outside of an NCSI background screen that qualifies as an Automatic or Potential Disqualifier(s) pursuant to the Disqualifiers Policy. The background check determination process for all Automatic and Potential Disqualifiers is set forth below.

a. NCSI Background Screen Results – Potential and Automatic Disqualifiers

Any finding from NCSI that results in a flagged background screen will result in a “red light” Background Check.

Notification of the “red light” and any applicable appeal process, as outlined in this policy, will be communicated to the individual by U.S. Figure Skating’s General Counsel or their designee.

b. Information discovered by U.S. Figure Skating outside of an NCSI background screen – Automatic Disqualifiers

Discovery by U.S. Figure Skating of any Automatic Disqualifier(s) will be reviewed by U.S. Figure Skating’s General Counsel. If it is determined that the information received does, in fact, qualify as an Automatic Disqualifier, a “red light” will be applied to the individual’s U.S. Figure Skating Background Check.

Notification of the “red light” and the applicable appeal process, as outlined in this Process Policy, will be communicated to the individual by U.S. Figure Skating’s General Counsel or their designee.

c. Information discovered by U.S. Figure Skating outside of an NCSI background screen – Potential Disqualifiers

Discovery by U.S. Figure Skating of any Potential Disqualifier(s) will be reviewed by U.S. Figure Skating’s General Counsel. If it is determined that the information received does, in fact, qualify as a Potential Disqualifier, a “red light” may be applied to the individual’s U.S. Figure Skating Background Check at the discretion of U.S. Figure Skating’s General Counsel or their designee. Information relating to the nature of the Potential Disqualifier, time elapsed since the event of the Potential Disqualifier, and any other relevant information may be considered in determining whether or not to apply a “red light.”

d. Notification

If applied, notification of the “red light” and the applicable appeal process, as outlined in this Process Policy, will be communicated to the individual by U.S. Figure Skating’s General Counsel or their designee.

II. Background Check Appeal Process for Automatic Disqualifiers

Background Check appeals for Automatic Disqualifiers are limited in scope as set forth below.

a. NCSI Background Screen Results – Automatic Disqualifiers

Per the Disqualifiers Policy, individuals who receive a “red light” due to an Automatic Disqualifier(s) which was the result of a background screen through NCSI may not dispute the accuracy of their background screen results with U.S. Figure Skating. They must go through NCSI and may only dispute the accuracy of the NCSI background screen. There is no appeal available through U.S. Figure Skating to overturn the “red light” Background Check for an NCSI Background Screen for an Automatic Disqualifier.

- b. Information discovered by U.S. Figure Skating outside of an NCSI background screen – Automatic Disqualifiers
Per the Disqualifiers Policy, individuals who receive a “red light” due to an Automatic Disqualifier(s) which was the result of information discovered by U.S. Figure Skating outside of an NCSI background screen may only dispute the accuracy of the Automatic Disqualifier to U.S. Figure Skating. Unless it is sufficiently demonstrated that the Automatic Disqualifier was applied due to inaccurate information discovered by U.S. Figure Skating, the “red light” will not be overturned. There is no appeal process available through U.S. Figure Skating when the information used to apply the Automatic Disqualifier was accurate and true.

III. Background Check Appeals Process for Potential Disqualifiers

Per the Disqualifiers Policy, individuals who receive a “red light” due to a Potential Disqualifier, either through an NCSI background screen or through other information discovered by U.S. Figure Skating, may submit an appeal to U.S. Figure Skating requesting that the “red light” be changed to a “green light.” The Appellant must provide notice of the appeal within 30 days of receiving the Notice of “red light” (“Notice”) or the Appeal will be automatically denied. Appellant shall include in the Notice 1) a written statement fully detailing the circumstances that led to the Potential Disqualifier; 2) a written statement that the Appellant has or has not ever had other issues that may be an Automatic or Potential Disqualifier (a statement fully detailing the circumstances that led to any other issues must be included if there are any other issues); and, 3) whether a hearing is being requested. Per the Panel Process described in Section III.b. below, a requested hearing is not guaranteed and will be granted at the discretion of the SkateSafe® Chair.

a. Appeal Panel

The Chair of the SkateSafe® Committee or designee will select a group of three SkateSafe® Committee members to serve on the appeal Panel for each case. The panel may include the Chair of the SkateSafe® Committee. The three-person panel must include at least one Athlete and one Coach. To meet this requirement, the Chair of the SkateSafe® Committee may select members of the Coaches Council, and Ethics and Grievance Committees for the Panel at the discretion of the SkateSafe® Chair. The identity of the panel members is confidential.

b. Panel Process

When an individual submits a Notice, U.S. Figure Skating’s General Counsel, or their designee, will redact all identifying information (e.g., name, birthdate, geographic location, etc.) from the Background Check findings, the Notice, and any other information being used as part of the review process. This redacted information will be provided to the Chair of the SkateSafe® Committee for submission to the Panel. If the appellant requested a hearing in their Notice, the SkateSafe® Chair has the discretion to decide whether a hearing will be granted and under what conditions a hearing will be granted with regard to testimony, evidence, and duration. Identifying information will not be redacted in submissions to the Panel if a hearing is granted by the SkateSafe® Chair.

The panel will review all information provided and should consider the following factors when making a determination to uphold the “red light” or overturn it to a “green light”:

1. risk to the skating community;
2. nature of the offense and totality of all offenses if more than 1;
3. date of the offense;
4. age of person at the time of the offense;
5. any remedial or rehabilitative steps that have been taken;
6. precedence from previous appeals;
7. the sentence received;
8. whether the case is currently pending or whether the case was dismissed and under what circumstances;
9. potential moral influence on the skating community; and
10. reputational impact on U.S. Figure Skating.

The Panel will endeavor to reach consensus on the outcome of the appeal but, if necessary, a majority vote of two thirds will suffice to make a determination.

The Chair of the SkateSafe® Committee or designee will provide the determination of the Panel and the basis for the determination to U.S. Figure Skating’s General Counsel. General Counsel or their designee may share the decision if a “red light” finding is upheld (but not the rationale) with any other persons necessary to enforce the “red light” (i.e., LOCs, the individual’s Club President and Club SkateSafe® Chair). General Counsel or their designee will also notify the applicant and update the individual’s Background Check status in U.S. Figure Skating records as necessary.