

MASSACHUSETTS YOUTH SOCCER ASSOCIATION

Presidents' Handbook



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The enclosed package is an explanation of services provided to your organization as a result of being a member.

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REGISTRATIONS

CONTACT – Rachel Woo (978) 466-8812 ex 236 rwoo@mayouthsoccer.org

EXPLANATION – As a condition of being a member of Mass Youth Soccer you are required to register every member of your association, both adult and player, each soccer year (September 1st to August 31st). That information is provided to us normally by the registrar throughout the soccer year via an encrypted secure site. Please note that adults cover a wide parameter. Not just the head coach but assistance and other volunteers as well. This is due in part to the state mandated background check that we complete. The terminology used by the Attorney General in regards to this matter: *any entity or organization primarily engaged in providing activities or programs to children 18 years of age or less that accepts volunteers, shall obtain all available criminal offender record information from the criminal history systems board prior to accepting any person as a volunteer.*

TIME FRAMES - This office sends out reminders prior to the beginning of each season and a second one prior to the end of the season. We request that the initial file be submitted prior to each September 1st and March 1st. This notification is sent out via e-mail to all registrars and presidents on file.

COST - The invoicing for the registration is sent to your registrar and treasurer if requested. You pay \$11.00 only once per member per soccer year, September 1st through August 31st. A breakdown as to how the cost is determined is as follows:

Payment for Fields Mortgage in Lancaster	\$3.00
Insurance Coverage (explained elsewhere in this handbook)	\$3.00
US Youth Soccer	\$1.00
Region 1	\$1.00
Mass Youth Soccer overhead	\$3.00

BENEFITS – As a member of Mass Youth Soccer your board members are covered by the Directors & Officers Liability Policy. Adult Volunteers and players are covered by the general liability policy and our Excess Health Insurance. Your organization is also entitled to request Certificates of Insurance. From the membership file we extract the adult information and forward the same to the Commonwealth of Massachusetts for the mandatory background checks. Your members can participate in any of the educational or training courses that our Instructional Staff provides. Unless you are a member of an organization such as Mass Youth Soccer who in turn is a member of US Youth Soccer, you cannot participate in any soccer events in this state or another. All of these subjects are fully explained in other areas of this handbook.

INSURANCE COVERAGE

CONTACT – Richard Braney (978) 466-8812 ex 222 rbraney@mayouthsoccer.org

EXPLANATION – In this litigious society that we live in, we feel it is important that we take the necessary steps to protect our organizations and its membership. Listed below are the policies that we have in place. Copies of each are available for your review upon request.

GENERAL LIABILITY – The policy is with Markel Insurance Company. It has a general aggregate limit of \$5M. This is the policy that is in place for the Certificates of Insurance issued to the folks that request such for the use of their facilities. We also carry a \$1M Excess/Umbrella.

DIRECTORS & OFFICERS LIABILITY – The policy is with Chubb Group of Insurance Companies. The Limits of Liability is \$2M each Policy Year.

ACCIDENT AND HEALTH POLICY SPECIAL RISK – Many people refer to this policy as the Excess Health Insurance Policy. This policy provides medical coverage to our members injured in a sanctioned event. It is written by Markel Insurance Company and claims are handled by Bollinger Insurance. We have a Claim Form on our web site that needs to be completed by the injured party and returned to us. We verified that they are registered and forward the form on to Bollinger for review and payment. Mass Youth Soccer self insures the first \$75,000. Thereafter we have a \$2M Aggregate Limit of Indemnity and an Aggregate Maximum of \$100K for a period of 104 weeks per claim.

CRIME POLICY – There are 4 parts of this policy:

Employee Theft	\$250K limit	\$2,500 Deductible
Premises Coverage	\$10K limit	\$250 Deductible
Transit Coverage	\$10K limit	\$250 Deductible
Forgery Coverage	\$10K limit	\$250 Deductible

CERTIFICATES OF INSURANCE – Many of the fields and gymnasiums that your organization uses are owned by cities & towns. They may request a Certificate of Insurance naming them as an additional insured. As president you should have an individual on your board charged with the responsibility of completing such a request with the on-line form found on our web site. Please remember if you have not registered for the current season we cannot honor your request. Follow-up questions should be referred to either Kate Murphy kmurphy@mayouth.org or Rachel Woo rwoo@mayouthsoccer.org

MASS YOUTH SOCCER INSTRUCTIONAL PROGRAM

Coaching Licenses Courses

The courses are organized in a progressive format so that instruction relates to specific age groups and leads up to the US Soccer National coaching schools for the C, B, and A licenses.

◇ G course

Prerequisites: Mandatory to complete G course before moving on to F license.

Must be 14 years of age.

Content: How to organize practices and game days, demonstration of basic techniques, and parent education.

For Whom: U6-U10 coaches

Duration: 4 hours

Cost: \$30

Materials: G manual CD, coach bag,

Coaching Program t-shirt

Also available online at

<http://massyouthcoachingcourse.org/>

◇ F course

Prerequisites: G license

Content: How to organize practices & game days, exercises for practice, more in depth demonstration of basic techniques, elementary goalie techniques, & basic tactical ideas.

For Whom: Coach with some experience of U8-U10 teams. Must be 16 years of age.

Duration: 8 hours

Cost: \$55

Materials: F manual CD,

Coaching Program t-shirt

◇ E course

Prerequisites: Successful completion of the F course (6 month waiting period after F course is completed)

Content: Systems of play, laws and restarts, more exercises for practices, advanced tactical ideas, and more goal keeping.

For Whom: Experienced coaches of the U10-U14 teams. Must be 16 years of age.

Duration: 16 hours

Cost: \$85

Materials: E manual CD, Coaching Soccer by Bert van Lingen, Coaching Program t-shirt

◇ D course

Prerequisites: Successful completion of the E course. (6 month waiting period after E course is completed)

Content: Coaching methodology and fitness, more advanced techniques and tactics, game analysis, more goalkeeping, and “the coaches toolbox”

For Whom: Experienced coaches of U12-U16 club or town teams or high school teams. Must be 16 years of age to attend.

Duration: 36 hours (8 hours of testing)

Cost: \$300

Materials: Links to appropriate D course materials and Coaching Program t-shirt

Specialty Clinics

Mass Youth Soccer has recently reconstructed and updated its Specialty Clinics. These clinics have been created to help advance the knowledge of coaches at all levels across the state. Some, you will see, are more focused on elite players, and others are geared toward developing players. A clinic consist of an intense two hour session, which concentrates on one of 23 developed themes: (if you would like another theme covered that is not listed, just let us know!!!)

INSTRUCTIONAL cont'd

Other Programs & Events

- ◇ **Vacation Soccer Days**
A staff coach will run training sessions during school break for a town or club organization. Minimum requirements are 12 players per session and 2 hours per day.
- ◇ **Camps, Player, & Team Training Sessions**
Mass Youth Soccer will cater these programs to your specific needs. We will come to your town or you can send your players to our overnight camp.
- ◇ **Try-Outs**
We will help you run, or run your tryouts for you, and staff them with our professional unbiased staff.
- ◇ **Age Group Oversight and Education**
We will provide you with syllabi for all your practices for an entire season and send a mentor coach to train all your coaches and help at weekly practices.
- ◇ **Board of Directors Meeting**
Mass Youth's Marketing Director and/ or Development coach will attend a board meeting for free to discuss best practices, common errors, strategic plans, and club structures to help towns and clubs at all levels.
- ◇ **High School Team Preseason Camp**
Mass Youth Soccer will hold a preseason camp, during the month of August, to prepare your team for the upcoming season. In 2009, this camp will be held at Citizens Bank Fields, in Lancaster, MA.
- ◇ **GOALS Free Inner City Soccer Program**
Mass Youth Soccer provides camp for players with few opportunities. Start a program in your town.

SKILLS ACADEMY

Provides intense training for highly motivated U11 and U12 players. Sessions are dynamic, fast paced, and cover all areas of technical development. Coaches are welcome to observe the sessions, receiving a syllabus for free. Academies can be set up in any regional area if interested please contact Tara Petricca, tpetricca@mayouthsoccer.org

When: January – March

INSTRUCTIONAL cont'd

SCHOOL BREAK & SUMMER CAMPS

Include:

- Flexibility to set up a camp of any style for any affiliated soccer club or organization
- U.S. Youth Soccer Licensed Staff
- Great player to coach ration
- Age appropriate groupings and practices
- Coaches welcome to observe for free!

Half Day Camps

- Community Clinics
- Moving to 8 v 8 Soccer Clinic
- Moving to 11 v 11 Soccer Clinic
- Team Clinic

Full Day Camps

- Elite Goalkeepers Clinic
- Elite Defenders Clinic
- Elite Midfielders Camp
- Elite Strikers Camp

Contact Information

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BACKGROUND CHECKS

CONTACT – If you question is in regards to procedural matters contact Richard Braney (978) 466-8812 rbraney@mayouthsoccer.org If it is to request a listing of coaches that have completed the form and have subsequently had a background or about a specific request of an individual contact John Burrill (978) 466-8812 ex 237 jburrill@mayouthsoccer.org

Purpose

As our society increases its awareness of the problems associated with child abuse, organizations involved with America 's youth must work diligently to provide them with a safe environment and to help our member clubs deal with the issue of child abuse. In August of 1994, the USYSA approved the KidSafe Risk Management Program and charged each state with the responsibility of developing a formal, written program to help prevent child abuse and molestation. Mass Youth Soccer implemented its version of KidSafe. In 2002 the Massachusetts enacted legislation that made criminal background checks on volunteers working with youth mandatory, *MGLC 6 Section 172 H*.

Mass Youth Soccer Position:

Mass Youth Soccer and its members will not knowingly allow any person convicted of a crime of violence, physical abuse, sale of illegal substances, or has any other convictions that would indicate a pattern of behavior that would have a detrimental effect on children to be placed in a position that would involve direct contact with children.

To complete this process there are two steps that must be completed:

Step 1. Your membership file provided to Rachel Woo must contain a listing of all adult volunteers, with their name, address and date of birth. Too often it is incorrectly assumed this means the coaches. In fact it means all assistant coaches, board members and any other volunteers that are part of your organization. Here is the terminology used by the Attorney General: *any entity or organization primarily engaged in providing activities or programs to children 18 years of age or less that accepts volunteers, shall obtain all available criminal offender record information from the criminal history systems board prior to accepting any person as a volunteer.*

Step 2. Each of the individuals must complete the CORI/Kidsafe Background form. Please be aware it is the registration file that prompts the actual background check not the form that the volunteer completes. This form is required by the Commonwealth of Massachusetts and we are compelled to retain the form in case there is the need for further clarification at a future point in time.

Once the check is completed and returned to our office, the Executive Director reviews those that have some sort of criminal charge. If he determines that the charge may warrant expulsion from our organization he refers the matter to the others on the review committee. If it is agreed the person will be denied membership into Mass Youth Soccer a letter will be sent to the president of the organization for which he belongs. That letter will only state Mass Youth Soccer will not accept the person in question as a member. A separate letter will be sent to the individual in question. He/she will be told that due to a background check it has been determined they will be denied membership into Mass Youth Soccer. They will also be given the opportunity to appeal this finding and the time frame for which they can do so.

FIELD COMPLEX

Mass Youth Soccer's field complex, Citizens Bank Fields at Progin Park, is a soccer specific facility with 11 natural grass and 5 synthetic turf fields. Each field meets FIFA international regulation guidelines in size (110 yards x 75 yards). When you come over the rise at the top of the parking lot and see the expanse of fields before you it is almost too much for words.

In 2009 the complex will play host to the most prestigious event in youth soccer, the US Youth Soccer National Championships. The tournament will be held July 20 – 26 and will feature the very best youth teams from across the county.

The complex will also host the 2009 Veterans Cup, an event for adult teams of all ages. Over 100 teams from across the country are expected to participate. This event will be held from July 8 -12.

Any Mass Youth Soccer group can rent a field. Just go to:
<http://www.mayouthsoccer.org/fieldScheduler.cfm>
and follow the instructions.

You can see a schedule of events at the complex by going to the home page of the web site:
www.mayouthsoccer.org.

The complex also features a nature trail with a 1 mile walk, picnic tables and barbeque grills.

The 11 grass fields are Kentucky Blue Grass . The 5 synthetic fields are Field Turf fields. Kwik Goals are in use throughout the complex and the complex can host 6 v 6; 8 v 8 as well as full sided matches. Restrooms and a concession stand are also available.

GOVERNANCE

Each year, organizations should perform a routine audit of the practices and procedures to ensure the organization is in compliance with all the many rules and regulations as well as to ensure your published documents are consistent with current practices. At times we all get caught up in the day to day and neglect to take a step back to make sure the organization is operating within the defined guidelines. The following is a listing of some of the areas which should be reviewed.

1. Constitution and By-laws: Does the organization have them, and if so are they current and do they reflect actual practice? If not, why not? A sample Constitution/ByLaws set is available on the Mass Youth Soccer website under About Us/Governance.
2. Are all tax filings and compliance filing done on an annual basis? Recently there was a change in the IRS regs regarding filings by small organizations.
3. Does the organizations properly classify those who performs work for and are compensated by the organization? In the past most have classified those who perform work for the organization as Independent Contractors. The Massachusetts Attorney General has issued an opinion letter on the subject and as a consequence many of those classed as Independent Contractors should be classified as employees. A copy of that opinion, titled “An Advisory from the Attorney General’s Fair Labor Division,” is found at the end of this handbook.
4. If individuals are employees, does the organization have (need) to provide workers compensation insurance (not provided by Mass Youth Soccer)?
5. Are 1099’s issued on an annual basis?
6. Is our data secure? Massachusetts has issued new regulations that mandate privacy and security standards for all organizations who maintain personal information on Massachusetts residents. A synopsis of the new regulations is included herewith.
7. Controls. Does the organization have adequate financial controls and oversight controls as well as segregation of duties to reduce the risk of misappropriation of club funds or assets.

HEARINGS

From time to time your club may find it necessary to hold a hearing. Here are some suggestions on how to properly run a hearing.

Under USSF Bylaw 701, any hearing held by the USSF or any of its Organization Members involving the right to participate or compete must provide certain minimum rights to the parties for whom the hearing is held. The following is a list of the rights set out in Bylaw 701.

- 1. Notice of the specific charges or alleged violations in writing and possible consequences if the charges are found to be true:** Prior to any disciplinary hearing, the organization holding the hearing must send out a written notice of that hearing to the parties. That notice must provide answers to the following questions:
 - Who is being charged/accused?
 - What are the charges being brought? What incident/behavior forms the basis for these charges? What rule(s), bylaw(s), or policies are alleged to have been violated?
 - If the charges are found to be true, what are the possible consequences? What penalties are available? What is the maximum penalty possible?
 - When and where will the hearing take place?
 - What procedural rules will apply to the hearing?
 - When will a decision be rendered (in accordance with State or local rules)?
- 2. Reasonable time between receipt of the notice of charges and the hearings within which to prepare a defense:** There is no specific amount of time that must be provided between notice and the actual hearing. It must simply be "reasonable." This will depend on the method of notice, the nature of the charges, etc., but generally one week will be considered "reasonable." If a party asks for an extension of time, it is probably most appropriate to grant it, at least if it is the first such request, in order to ensure that there is sufficient time to prepare a defense. The time of notice is generally deemed to be whenever it is deposited in the mail, or otherwise sent out (by FedEx, facsimile, etc.). It is recommended that the written notice be sent in a way that provides a written receipt to the sender, to avoid having the issue of notice become an issue on appeal.
- 3. The right to have the hearing conducted at a time and place so as to make it practicable for the person charged to attend:** Whether the time and place for a hearing is "practicable" will depend on the specific circumstances: the distance from the party's home to the place of hearing, the party's work schedule, etc. Generally, if a party asks for a hearing to be rescheduled due to a scheduling conflict or difficulty in appearing at the hearing, it is probably most appropriate to grant the request, at least if it is the first such request, to ensure that it is practicable for the person to attend the hearing.
- 4. A hearing before a disinterested and impartial body of fact-finders:** It is advisable to select hearing panels in a way that excludes not only those who are clearly interested in the outcome, but also anyone that would appear to be interested, partial, or biased. In other words, if a panel member would appear to be biased to an objective outsider, they should not be on the panel, even if in reality they are unbiased and impartial. There is no

specific set of people who must be excluded, but the following are some examples of people who are less likely to qualify as "disinterested" and "impartial":

- Family members or close friends of any of the parties
 - The individual who actually filed the complaint or report that led to the charges
 - In an appeal, an individual who had any role in making the decision that is on appeal
 - Anyone who is a witness at the hearing
5. **The right to be assisted in the presentation of one's case at the hearing:** A person giving assistance may be, but does not have to be, an attorney. The person assisting must be allowed to attend the hearing. Leagues, clubs, States, etc. should be careful to set its rules and regulations so that they do not keep the person assisting out of the hearing room. There is no requirement that the person assisting be allowed to speak at the hearing on behalf of the party; this will depend on the rules governing the hearing. However, the person assisting must be permitted to participate to the same extent as the opposing party's assistant. For instance, if the State representative is allowed to question witnesses directly, the accused's assistant should also be given this opportunity. Bylaw 701 does not require that the person assisting be allowed to take control over the hearing, or attempt to conduct the hearing as if it were a trial in Federal or state court. The hearing should be conducted in accordance with applicable rules
6. **The right to call witnesses and present oral and written evidence and argument:** While a party should be allowed to present their case and a full defense to any charges, there are limits to that right. For instance, while a party has a right to "call witnesses," these hearings do not take place in a court of law, and there is no way to mandate that a certain witness appears at the hearing. If a witness refuses to appear, and a party thus has no opportunity to question him or her, this does not mean that the party was denied due process. A league, club, or state association may reasonably limit the introduction of evidence or the questioning of witnesses. For instance, if a party brings twelve character witnesses to a hearing, the hearing panel may limit their testimony by number of witnesses or time. However, where a party brings three eyewitnesses who can testify as to what actually occurred during an incident, it may be appropriate to allow all three to testify. It is in the discretion of the State, league, etc. to determine what should be allowed, but the party must be provided a reasonable opportunity to present his/her case
7. **The right to confront witnesses, including the right to be provided with the identity of witnesses in advance of the hearing:** While a party to a hearing has the right to confront witnesses that appear at the hearing, this does not apply to witnesses who do not appear at the hearing. For instance, if a witness sends in a letter, but refuses (or is unable) to appear at the hearing, the panel may consider the letter even though the witness was not "confronted." (However, when a written statement is provided to the panel, the accused party should be given a copy of that statement and a chance to answer the allegations in it). Generally, of course, a reasonable effort should be made to have witnesses appear at the hearing, especially if their testimony is critical to the issues before the panel. If a party specifically requests that a certain witness be present, that witness should be encouraged to attend. If an important witness has limited availability, the panel should consider scheduling the hearing so as to fit that witness's schedule. If a witness does testify for one party, the other party should, in most cases, be afforded the opportunity to cross-examine the witness, or at least to ask questions through the panel.

The organization running the hearing should notify the parties that they have the opportunity to learn the identity of witnesses in advance of the hearing, and should encourage the parties to exchange witness lists. If a party has no notice of a witness, the panel should consider allowing that party additional time to prepare for the witness. This consideration should take into account the importance of the testimony, the degree of surprise to the party not having notice, any efforts the party made to learn of potential witnesses before the hearing, and the possible harm to the party not having notice.

8. **The right to have a record made of the hearing if desired:** While it is advisable for organizations to record all hearings, for many organizations this may not be practicable. At a minimum, therefore, they must provide the opportunity for a recording if requested, at the requesting party's expense. If a party asks a written transcript of a hearing, they may be required to pay for the cost of the transcription without violating their due process rights.
9. **A written decision, with reasons for the decision, based solely on the evidence of record, issued in a timely fashion:** A decision should be issued in writing to the accused. That decision should include the specific finding of the hearing panel: a description of the charges for which the accused was found guilty, the facts that led to that decision, and the discipline imposed. This should be something more than "The committee finds you are in violation of the rules and thus suspends you for ten years." Instead, it should provide more detail. For instance, "The committee finds that you punched a referee in the nose, causing him physical injury. This constitutes 'referee assault' under U.S. Soccer Policy 531-9, and the committee hereby imposes a one year suspension in accordance with Section 4(a) of that Policy." The panel should decide the case based purely on the evidence before them, not their outside dealings with either party or rumors they heard outside of the hearing. The decision should, ideally, inform the accused as to the next procedural option. Specifically, it is advisable to tell the party if there is a right to an appeal, where any appeal should be filed, how long they have to file the appeal, and the amount of any appeal fee.
10. **Notice of any substantive and material action of the hearing panel in the course of the proceedings:** If the panel decides during the course of the hearing or deliberations that it needs to proceed in some way that was not originally planned, such as considering a new witness, or asking for additional arguments, the panel should notify the parties.
11. **Quality concerning communications, and no ex parte communication is permitted between a party and any person involved in making its decision or procedural determination except to provide explanations involving procedures to be followed:** Every effort should be made to determine the current address of the accused, and to keep the accused well-informed of the proceedings. There should be no "ex parte" communications (these are communications about the substance or merits of the hearing that are held outside the presence of everyone concerned). For instance, if a League president accuses a coach of violating a rule, the League president should not discuss the case with a member of the hearing panel in private before the actual hearing. The accused also should not discuss any issues with any panel member. Copies of any written communications with the panel should be sent to each of the parties involved in the hearing.

MASSACHUSETTS' NEW PRIVACY LAW REGULATIONS

The Commonwealth of Massachusetts recently issued final regulations, implementing its security breach notification statute, that mandate privacy and security standards for all organizations that own, license, store or maintain personal Information about Massachusetts residents. Virtually every company that has employees or customers in Massachusetts will be affected by these regulations. These state regulations are the first of their kind In the US and mirror some of the requirements of the more robust European data protection laws or the regulations implementing the Gramm-Leach-Bliley Act, which pertain to banking and financial institutions. However, the Massachusetts regulations may provide a glimpse into what's next for state legislatures around the country.

The original deadline for compliance was January 1, 2009; however, the Massachusetts Office of Consumer Affairs and Business Regulation (OCABR) announced on November 14th that it would extend the deadline to May 1, 2009. The OCABR said that "in light of intervening economic circumstances," it delayed the deadline to "provide flexibility to businesses that may be experiencing financial challenges brought on by national and international economic conditions." OCABR said the deadline for ensuring that third-party service providers are capable of protecting personal information and contractually binding them to do so will be extended from January 1, 2009 to May 1, 2009, and the deadline for requiring written certification from third-patty providers will be further extended to January 1, 2010. The agency said the tiered deadlines for requiting certification will ensure proper consumer protection and facilitate implementation without overburdening small businesses during harsh economic times. The deadline for ensuring encryption of laptops will be extended from January 1, 2009 to May 1, 2009, and the deadline for ensuring encryption of other portable devices will be suspended until January 1, 2010.

The new regulations build on the Massachusetts security breach notification law, which mandated the development of the regulations to 'safeguard the personal information of residents of the commonwealth." The objectives of the regulations, as set forth in the breach law, are to: "insure the security and confidentiality of customer information in a manner fully consistent with industry standards; protect against anticipated threats or hazards to the security or integrity of such Information; and protect against unauthorized access to or use of such information that may result In substantial harm or Inconvenience to a consumer." Personal information is defined for these purposes as "a resident's first name and last name or first Initial and last name In combination with any one of more of the following: social security number; driver's license number or state-issued Identification card number; or financial account number or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a resident's financial account."

Most importantly, the new regulations add teeth to a key requirement of many security breach notification laws: that organizations ensure “reasonable and adequate security” by delineating specific technical security measures that any covered organization must adopt, including:

- secure user authentication protocols
- secure access control measures
- encryption of all transmitted personal Information that travels across public networks and wirelessly (to the extent technically feasible) reasonable monitoring of systems for unauthorized use or access encryption of all personal Information stored on laptops or other portable devices (nothing about feasibility on this one) up-to-date firewall protections and OS patches reasonably updated versions of system security agent software which must include malware, patches and virus definitions education and training of employees on the proper use of the computer security system and the importance of personal information security

The Massachusetts regulation also mandates a comprehensive, written security program applicable to all personal information. The written program must include:

- Designation of a person responsible for the program
- An assessment of risks and safeguards to limit those risks
- Policies that address employee handling of personal information outside of business premises
- Disciplinary measures for violations of the program
- Measures to prevent access to personal Information by terminated employees
- Verification that third party providers who handle personal information have adequate
- Safeguards and a written certification that the vendor has met the standards set forth in the Massachusetts regulation
- Limitations on the collection, retention of, and access to personal information a description of the location of personal Information within the organization restrictions on physical access to personal information
- A plan to monitor and upgrade the program regularly
- At least annual reviews of the scope of the program
- A process to document responses to any security breach

The new Massachusetts regulations take effect on May 1, 2009 and January 1, 2010.

PROGRAMS AND TOURNAMENTS

Listed below are the major programs and tournaments that the state office runs:

OLYMPIC DEVELOPMENT PROGRAM

Director of ODP – Jared Scarparci (odp@mayouthsoccer.org)

- The original national identification and development program for high-level and elite players established in 1977 as the US Youth Soccer Select Team Program
- The only elite player program with more than 25 years of experience and verifiable results.
- A well-defined infrastructure in place and the experience to deliver international travel and competition, exposure, scholarships and other exclusive opportunities
- Not a dream, but a reality with programs in US Youth Soccer's 55 member State Associations
- The only elite player development program that can claim a majority of current Individual development as a player
- Opportunity to train, play, and compete with the best players
- State Association administration and funding
- Regional and National funding to reduce cost
- Quality instruction from the most respected and experienced coaches in the country
- Established relationships and exposure to collegiate, professional, Regional and National team coaches
- Opportunities to represent one's State Association, Region or country in domestic and international competition
- Exposure to collegiate programs
- Exposure to the MLS' Project 40 program
- alumni
- The only elite player development program that can claim members of Major League Soccer and Women's United Soccer Association as alumni
- An opportunity to train with and compete against the best players at the State, Regional, and National levels



What are the goals of ODP?

- To identify a pool of players in each age group from which United States Men's, Women's, and Youth national team pools can be selected for international competition
- To provide high level training to benefit and enhance the development of players at all levels
- Through the use of carefully selected licensed coaches, develop a mechanism for the enhancement of ideas and curriculum to improve all levels of coaching

To find out more about ODP, visit the ODP portion of the Mass Youth Soccer website.

NATIONAL CHAMPIONSHIP SERIES

Director – Terri Filippetti tfilippetti@townisp.com

Mass Youth Soccer hosts the Massachusetts State Cups Tournament each year. This tournament brings together some of the best teams in Massachusetts. Competition is held in the Under 13 through Under 19 year old age groups for both boys and girls. The winner of each age/gender grouping is declared the state champion and goes on to represent Massachusetts in the US Youth Soccer Region 1 Championships that will be held in Barboursville, West Virginia *July 2 - July 7, 2009*. Regional winners will then go on to play in the US Youth National Championships that will be held in Lancaster, Massachusetts *July 21-26, 2009*.

Every team who has 50% of its players as Massachusetts residents is eligible to enter, provided they meet certain eligibility requirements as set forth in the US Youth Soccer National Championship policies. Teams must also compete in a state approved qualifying league as detailed below*. Teams interested in entering must declare their intent by September 1st in the Under 13 and Under 14 age groups, and by December 15th in the other age groups. An entry form is required each year and teams must pay the required entry fee. This form along with the Challenge Rules can be accessed below.

Once all teams have declared, all teams are “seeded” based upon previously established criteria. Based upon the number of declared entries in an age/gender group, single elimination games (Challenge Rounds through round 2) are held in the September and October time frame for U13 and U14 age groups, and the April and May time frame for all other age groups. The objective is to reduce the field to a **group of eight teams** for the round robin competition in the U13 - U19 age groups.

MASS TOURNAMENT OF CHAMPIONS

Director, Leagues Committee John Linnehan jlinn1313@aol.com

The Massachusetts Tournament of Champions (MTOC) is a season-ending tournament sponsored by Mass Youth Soccer that brings together age/gender group champions from participating travel leagues. Each of these leagues establish their own guidelines, including league playoffs, to determine their representatives to this tournament. The leagues that participate in MTOC are: Berkshire, BAYS, Coastal, Essex, MAYS, Middlesex, Nashoba, Pioneer Valley, South Coast and South Shore.

TOPS PROGRAM

Director – Ray Robinson rayrobinson12a@comcast.net

TOPSoccer – The Outreach Program for Soccer – is a community-based training and team placement program for young athletes with disabilities. It is organized by state youth soccer association volunteers. The TOPS program is designed to bring the opportunity of learning and playing soccer to any boy or girl with a mental or physical disability. TOPSoccer was formed to support the United States Youth Soccer Association mission statement as it is applied to disabled young athletes. In part, that mission statement dictates that we all work “to foster the physical, mental and emotional growth and development of America's youth through the sport of soccer at all levels of age and competition.”

Here in Massachusetts, we are committed to providing the necessary resources to make TOPS successful in every way. Each program is different and its development is structured to the specific participants. Modifications are made to the game and training environment to allow full participation and enjoyment to each child that participates.

Mass Youth Soccer encourages all of its organizations to utilize the resources of Mass Youth Soccer to help structure a TOPS program in their area, and it encourages parents of disabled children to contact John Burrill, Executive Director of Mass Youth Soccer at 800-852-8111 x 237.

DISTRICT SELECT SUMMER PROGRAM

Director Recreational Programs – Nancy Hart nancyjh21@comcast.net

Mass Youth Soccer sponsors a summer soccer program called the District Select Program. Cities and towns throughout the Commonwealth are combined into districts of roughly equal population. In most years, we operate with seven districts, although teams are not always formed in eligible age groups within each district.

The District Select Program was originally formed to identify a pool of players in each age group from which an ODP team would be selected. Today it is used primarily as a means to allow the continuation of the player's development during the summer.

On an annual basis each District holds tryouts to determine the players to participate in their respective groupings. The Program utilizes single year age groups for boys and girls, Under 12 through Under 17, and for the Under 19 age group. Each district is responsible for scheduling their tryouts independently. Try-outs are held during the first two-three weeks in May.

The season runs approximately four weeks -- it starts on the first weekend following the 4th of July and ends with a tournament the first or second weekend of August. All teams are eligible to participate in the tournament.

CORPORATE SPONSORSHIP

Massachusetts Youth Soccer Association looks to align with leading class companies that share common goals and values of passion, dedication, community and development. The Association is dedicated to forming mutually beneficial partnerships that connect the right sponsors to our active membership. We strive to collaborate on innovative programs that engage youth soccer players and their families in the state of Massachusetts.

We would like to thank the following companies for their support of youth soccer in Massachusetts:



To explore corporate sponsorship opportunities with Mass Youth Soccer please contact:

Nicole Dessingue
Marketing and Communications
978.466.8812 ext. 235
ndessingue@mayouthsoccer.org

**An Advisory from the Attorney General's Fair Labor Division on
M.G.L. c. 149, s. 148B
2008/1¹**

The Office of the Attorney General (AGO) issues the following Advisory regarding [M.G.L. c. 149, s. 148B](#), the Massachusetts Independent Contractor Law or the Massachusetts Misclassification Law (the "Law"). This Advisory provides guidance with respect to the Attorney General's understanding of and enforcement of the Law. This Advisory is not a formal opinion. Opinions of the Attorney General are formal documents rendered pursuant to specific statutory authority. [M.G.L. c. 12, s. 3, 6, and 9](#). The Advisory is intended to provide guidance only and does not create any rights or remedies.

I. INTRODUCTION

A. The Need for Enforcement

The need for proper classification of individuals in the workplace is of paramount importance to the Commonwealth.² Entities that misclassify individuals are in many cases committing insurance fraud and deprive individuals of the many protections and benefits, both public and private, that employees enjoy. Misclassified individuals are often left without unemployment insurance and workers' compensation benefits. In addition, misclassified individuals do not have access to employer-provided health care and may be paid reduced wages or cash as wage payments.

Similarly, entities that misclassify individuals deprive the Commonwealth of tax revenue that the state would otherwise receive from payroll taxes. In addition, as a result of misclassification, the Commonwealth often incurs additional costs, such as providing health care coverage for uninsured workers. Other potential costs for the Commonwealth include providing workers' compensation benefits paid by the Workers' Compensation Trust Fund, and unemployment assistance without employer contribution into the Division of Unemployment Assistance fund, among other indirect costs.

Finally, businesses that properly classify employees and follow all of the relevant statutes regarding employment are likely to be at a distinct competitive disadvantage when vying for the same work, customers or contracts as those businesses that do not play by the rules. Further, by paying the proper taxes and insurance premiums, businesses following the Law are, in effect, subsidizing those businesses that do not. Misclassification undermines fair market competition and negatively impacts the business environment in the Commonwealth. The AGO expects businesses to contract only with businesses that properly classify their workers.

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<sup>1</sup> This Advisory supersedes the Attorney General's prior Advisories regarding [M.G.L. c. 149, s. 148B](#), including "An Advisory from the Attorney General, Amendments to Massachusetts Independent Contractor Law," Advisory 2004/2; and an "Advisory from the Attorney General's Fair Labor and Business Practices Division on the Issue of Employee Versus Independent Contractor," Advisory 94/3.

<sup>2</sup> The Commissioner of Revenue is charged with administering the Massachusetts wage withholding laws under [M.G.L. c. 62B](#), which provides a different definition of employee than [M.G.L. c. 149, s. 148B](#), for purposes of Massachusetts income tax withholding. See [Department of Revenue TIR 05-11: Effect of New Employee Classification under M.G.L. c. 149, s. 148B on Withholding of Tax on Wages under M.G.L. c. 62B](#). In addition, a definition similar but not identical to [M.G.L. c. 149, s. 148B](#), exists for unemployment insurance purposes. [M.G.L. c. 151A, s. 2](#). The Massachusetts Workers' Compensation Law also provides a different definition of employee. [M.G.L. c. 152, s. 1\(4\)](#).

## B. The History of the Law

The proper classification of employees has long been an issue of great concern in the Commonwealth. Under common law, a number of factors determined the existence of an employer/employee relationship based on the totality of the relationship. See, e.g., *Commonwealth v. Savage*, 31 Mass. App. Ct. 714 (1991). Those factors included the degree of control, the opportunity for profit and risk of loss, the employee's investment in the business facility, the permanency of the relationship, the skill required and the degree to which the employee's services were integral to the business.

In 1990, Massachusetts enacted the first version of the Law. By enacting the Law, the Legislature established that notwithstanding that a working relationship could be considered to be one of independent contractor under common law, the worker may still be deemed in employment for the purposes of the Law. *Boston Bicycle Couriers v. Deputy Director of the Division of Employment and Training*, 56 Mass. App. Ct. 473, 477 (2002).

Subsequent to its enactment in 1990, the Law has undergone several amendments including: Section 214 of Chapter 286 of the Acts of 1992; Section 165 of Chapter 110 of the Acts of 1993; Section 12 of [Chapter 236 of the Acts of 1998](#); and Section 26 of [Chapter 193 of the Acts of 2004](#). The 2004 amendment was part of legislation making broad changes to the laws governing the public construction industry. However, the Law, including the 2004 amendment, applies more broadly to a wide range of industries. The 2004 amendment kept intact, in large part, the standard for determining whether an individual is an employee, but made several changes from the earlier version of the statute. The amendment deleted the element "or is performed outside of all places of the business of the enterprise" as an alternative factor in prong two. In addition, the first element of prong two of the Law had read: "such service is performed ... outside the usual course of business for which the service is performed..." After the 2004 amendment, the element reads: "the service is performed outside the usual course of business of the employer." Finally, the amendment added "trade" to the list of activities eligible for independent contractor status in prong three.

## II. THE LAW

[M.G.L. c. 149, s. 148B](#), provides a three-part test which requires that all three elements (commonly referred to as prongs one, two and three or the A, B, C test) must exist in order for an individual to be classified other than as an employee. The burden of proof is on the employer, and the inability of an employer to prove any one of the prongs is sufficient to conclude that the individual in question is an employee. [M.G.L. c. 149, s. 148B](#) (using the term "unless"). See also *Scalli v. Citizens Financial Group*, 2006 WL 1581625, \*14 (D. Mass. 2006); *Rainbow Development, LLC v. Com., Dept. of Industrial Accidents*, 2005 WL 3543770, \*2 (Mass. Sup. Ct. 2005).

Courts have had a limited opportunity to interpret [M.G.L. c. 149, s. 148B](#). In *College News Service v. Department of Industrial Accidents*, 21 Mass.L.Rptr. 464, 2006 WL 2830971, the Superior Court noted that [M.G.L. c. 149, s. 148B](#) is almost identical to [M.G.L. c. 151A, s. 2](#), the statute used by the Division of Unemployment Assistance, and therefore relied on the case law analyzing [M.G.L. c. 151A, s. 2](#), to interpret [M.G.L. c. 149, s. 148B](#). See \*4 ("If the Legislature uses the same language in several provisions concerning the same subject matter [e.g., the definition of an employee in distinction from an independent contractor], the courts will presume it to have given the language the same meaning in each provision.").

See also *Commonwealth v. Germano*, 379 Mass. 268, 275-76 (1979). Because prongs one and three of [M.G.L. c. 149, s. 148B](#) and [M.G.L. c. 151A, s. 2](#) are nearly identical and because prong two of [M.G.L. c. 149, s. 148B](#) contains one of the two steps of prong two in [M.G.L. c. 151A, s. 2](#), Massachusetts case law interpreting [M.G.L. c. 151A, s. 2](#) provides a useful guide to interpreting [M.G.L. c. 149, s. 148B](#).

## A. The Three Prong Test

### Prong One: Freedom from Control

The first prong of [M.G.L. c. 149, s. 148B](#) provides that the individual must be “free from control and direction in connection with the performance of the service, both under his contract for the performance of service and in fact” in order for the individual to be an independent contractor. In *Commissioner of the Division of Unemployment Assistance v. Town Taxi of Cape Cod*, 68 Mass. App. Ct. 426, 434 (2007), the Court noted in interpreting the nearly identical language of prong one of [M.G.L. c. 151A, s. 2](#) that:

The first part of the test examines the degree of control and direction retained by the employing entity over the services performed. The burden is upon the employer to demonstrate that the services at issue are performed free from its control or direction. The test is not so narrow as to require that a worker be entirely free from direction and control from outside forces.

*Id.* (citations omitted).

The first prong of the test includes a determination of the employer’s actual control and direction of the individual. See [M.G.L. c. 149, s. 148B](#) (using the phrase “in fact”). An employment contract or job description indicating that an individual is free from supervisory direction or control is insufficient by itself to classify an individual as an independent contractor under the Law. To be free from an employer’s direction and control, a worker’s activities and duties should actually be carried out with minimal instruction. For example, an independent contractor completes the job using his or her own approach with little direction and dictates the hours that he or she will work on the job.

### Prong Two: Service Outside the Usual Course of the Employer’s Business

Prong two of [M.G.L. c. 149, s. 148B\(a\)\(2\)](#) provides that the service the individual performs must be “outside the usual course of business of the employer” in order for the individual to not be classified as an employee. Prior to the 2004 amendment, the employer could alternatively demonstrate that the work was performed “outside of all places of the business of the enterprise.” The Law does not define “usual course of business” and Massachusetts courts have had limited opportunities to do so. In *Athol Daily News v. Division of Employment and Training*, 439 Mass. 171, 179 (2003), the Court found that newspaper carriers were performing the “usual course of business” of the newspaper relying on the employer’s own definition of its business. In *American Zurich v. Dept. of Industrial Accidents*, 2006 WL 2205085, \*4 (Mass. Super. 2006), Judge Paul Troy noted that “a worker whose services form a regular and continuing part of the employer’s business” and “whose method of operation is not such an independent business” through which workers’ compensation costs can be channeled, “should be found to be an employee.” *Id.* Yet, “if the worker is performing services that are part of an independent, separate, and distinct business from that of the employer,” prong two is not implicated. *Id.*

### **Prong Three: Independent Trade, Occupation, Profession or Business**

Prong three provides that the individual “is customarily engaged in an independently established trade, occupation, profession or business of the same nature as that involved in the service performed” in order for the individual to be classified other than as an employee. [M.G.L. c. 149, s. 148B\(a\)\(3\)](#). “Under the third prong, the court is to consider whether the service in question could be viewed as an independent trade or business because the worker is capable of performing the service to anyone wishing to avail themselves of the service or, conversely, whether the nature of the business compels the worker to depend on a single employer for the continuation of the services.” *Coverall v. Division of Unemployment Assistance*, 447 Mass. 852, 857-58 (2006) (interpreting prong three of M.G.L. c. 151A, s. 2). The court went on to note in *Coverall*:

Although the court can consider whether a worker is capable of performing the service to anyone wishing to avail themselves of the services, the court may also consider whether the nature of the business compels the worker to depend on a single employer for the continuation of the services [citation omitted]. In this regard, we determine whether the worker is wearing the hat of the employee of the employing company, or is wearing the hat of his own independent enterprise.

*Id.*

### **B. Issues Deemed Irrelevant**

An employer’s failure to withhold taxes, contribute to unemployment compensation, or provide worker’s compensation is not considered when analyzing whether an employee has been appropriately classified as an employee. [M.G.L. c. 149, s. 148B\(b\)](#). Hence, an employer’s belief that a worker should be an independent contractor has no relevance in determining whether there has been violation of the Law. Similarly, the Law deems irrelevant the status of a worker as a “sole proprietor or partnership,” for the purpose of obtaining worker’s compensation insurance. [M.G.L. c. 149, s. 148B\(c\)](#).

### **C. Violation of the Law**

[M.G.L. c. 149, s. 148B\(d\)](#) provides that an employer violates the statute when two acts occur. First, the employer classifies or treats the individual other than as an employee although the worker does not meet each of the criteria in the three prong test. Second, in receiving services from the individual, the employer violates one or more of the following laws enumerated in the Law:

- The wage and hour laws set forth in [M.G.L. c. 149](#).
- The minimum wage law set out in [M.G.L. c. 151, s. 1A, 1B, and 19](#); [455 CMR 2.01](#), *et seq.*
- The overtime law set forth in [M.G.L. c. 151, s. 1, 1A, 1B, and 19](#).
- The law requiring employers to keep true and accurate employee payroll records, and to furnish the records to the Attorney General upon request as required by [M.G.L. c. 151, s. 15](#).
- Provisions requiring employers to take and pay over withholding taxes on employee wages. [M.G.L. c. 62B](#).<sup>3</sup>
- The worker’s compensation provisions punishing knowing misclassification of an employee. [M.G.L. c. 152, s. 14](#).

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³ As noted in footnote 2, for purposes of income tax withholding, [M.G.L. c. 62B](#) provides a definition of employee that differs from the three prong test in [M.G.L. c. 149, s. 148B](#).

The statute authorizes the Attorney General to impose substantial civil and criminal penalties, and in certain circumstances, to debar violators from public works contracts. [M.G.L. c. 149, s. 27C\(a\)\(3\)](#). The penalties and length of debarment depend upon the nature and number of violations. [M.G.L. c. 149, s. 148B\(d\)](#) also creates liability for both business entities and individuals, including corporate officers, and those with management authority over affected workers.

III. ENFORCEMENT GUIDELINES

A. General Enforcement Guidelines

The AGO recognizes that enforcement guidelines are useful to employers, entities and individuals who must determine whether a particular situation or individual has employee status. When enforcing the Law, the AGO attempts to protect workers, legitimate businesses and the Commonwealth, consistent with the goals of the Law outlined in the Introduction.

The Law is focused on the misclassification of individuals. In the event that all individuals performing a service are classified and legitimately treated as employees of an entity (paid W-2 income, received W-2 tax forms, subject to withholdings for federal and state taxes, covered by workers' compensation insurance, eligible for unemployment compensation benefits, etc.) and are performing the service as an employee, then there is no misclassification of those workers. Accordingly, in determining whether the Law has been violated, the initial question is whether an individual or individuals are classified other than an employee. For example, if painting company X cannot finish a painting job and hires painting company Y as a subcontractor to finish the painting job, provided that all of the individuals performing the painting are employees of company Y, then the Law does not apply. However, if painting company X hires individuals as independent contractors to finish the painting job, then this would be a violation of prong two and a misclassification under the Law.

The AGO is cognizant that there are legitimate independent contractors and business-to-business relationships in the Commonwealth. These business relationships are important to the economic wellbeing of the Commonwealth and, provided that they are legitimate and fulfill their legal requirements, they will not be adversely impacted by enforcement of the Law. The difficulty arises when businesses are created and maintained in order to avoid the Law. The AGO will enforce the Law against entities that allow, request or contract with corporate entities such as LLCs or S corporations that exist for the purpose of avoiding the Law. In these situations, the AGO will consider, among other factors, whether: the services of the alleged independent contractor are not actually available to entities beyond the contracting entity, even if they purport to be so; whether the business of the contracting entity is no different than the services performed by the alleged independent contractor; or the alleged independent contractor is only a business requested or required to be so by the contracting entity.

In reviewing situations for misclassification, the AGO considers certain factors to be strong indications of misclassification that warrant further investigation and may result in enforcement. These include:

- Individuals providing services for an employer that are not reflected on the employer's business records;
- Individuals providing services who are paid "off the books", "under the table", in cash or provided no documents reflecting payment;
- Insufficient or no workers' compensation coverage exists;
- Individuals providing services are not provided 1099s or W-2s by any entity;
- The contracting entity provides equipment, tools and supplies to individuals or requires the purchase of such materials directly from the contracting entity; and
- Alleged independent contractors do not pay income taxes or employer contributions to the Division of Unemployment Assistance.

Since it is not feasible to address in this Advisory every situation that could occur, and since each case involves its own set of facts, it should be recognized that each potential enforcement action shall be reviewed by the AGO on a case-by-case basis, consistent with the Law.

B. Prong Two Guidelines

Due to the nature of prong two and the lack of judicial precedent, the AGO recognizes the complexity that prong two presents and the concerns regarding legitimate independent contractors, particularly among certain segments of the workforce.

As discussed above, the AGO emphasizes that the initial question in determining whether the Law has been violated is whether an individual or individuals are classified other than as an employee. Only when an individual or individuals are classified other than as an employee will there be a determination of whether any of the prongs - including the complex prong two - are violated.

In *Athol Daily News*, the Court advised that no prong should be read so broadly as to render the other factors of the test superfluous. 439 Mass. at 180. Thus, prong two should not be construed to include all aspects of a business such that prongs one and three become unnecessary.

In its enforcement actions, the AGO will consider whether the service the individual is performing is necessary to the business of the employing unit or merely incidental in determining whether the individual may be properly classified as other than an employee under prong two.

Some examples of how the Attorney General will apply prong two⁴:

- A drywall company classifies an individual who is installing drywall as an independent contractor. This would be a violation of prong two because the individual installing the drywall is performing an essential part of the employer's business.
- A company in the business of providing motor vehicle appraisals classifies an individual appraiser as an independent contractor. This would be a violation of prong two because the appraiser is performing an essential part of the appraisal company's business.
- An accounting firm hires an individual to move office furniture. Prong two is not applicable (although prongs one and three may be) because the moving of furniture is incidental and not necessary to the accounting firm's business.

IV. CONCLUSION

As this Advisory reflects, the AGO will carry out its enforcement responsibilities to serve the goals of the Law as articulated in the Introduction. The Law has been passed and amended over time to address serious abuses by various entities, and the AGO's goal is to prevent and remedy those practices without disrupting legitimate business activity.

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<sup>4</sup> In interpreting the Illinois independent contractor law, the Supreme Court of Illinois noted in *Carpetland U.S.A., Inc. v. IL Dept. of Employment Security*, 201 Ill.2d 351, 386-88 (2002):

The washing of windows or mowing of grass for a business is incidental. But when one is in the business of selling a product, sales calls made by sales representatives are in the usual course of business because sales calls are necessary. When one is in the business of dispatching limousines, the services of chauffeurs are provided in the usual course of business because the act of driving is necessary to the business.

Although the Illinois statute is not the same as the Massachusetts statute, the court's analysis is useful for guidance on how the Attorney General will undertake prong-two enforcement.

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MASS YOUTH SOCCER WOULD LIKE TO THANK  
OUR SPONSORS:

