

UINTAH SCHOOL DISTRICT POLICY ACTION REVIEW

1st Reading	<u>11/11/20</u>	New	<u> </u>
2nd Reading	<u>12/9/20</u>	Revised	<u> X </u>
Approved	<u>12/9/20</u>	Substitute	<u> </u>

005.0250 CRIMINAL BACKGROUND CHECKS AND REPORTING REQUIREMENTS FOR EMPLOYEES AND VOLUNTEERS

REVISES CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES AND VOLUNTEERS POLICY (LAST APPROVED 08/08/18)

1.0 GENERAL STATEMENT

- 1.1 Uintah School District (the “district”) is committed to providing a safe learning environment for students.
- 1.2 As part of this effort, the district requires fingerprint/criminal background checks of all employees and volunteers pursuant Utah state law, Utah State School Board Rule, and in accordance with this policy.
- 1.3 District administration shall develop procedures and practices consistent with this policy.
- 1.4 The district shall provide appropriate training to employees and volunteers regarding self-reporting and ethical behavior of public education employees and volunteers.

2.0 DEFINITIONS

- 2.1 “Fingerprint/Criminal Background Report” means a report generated by the Bureau of Criminal Identification (BCI) after a search of State of Utah criminal history files and/or other state and federal databases designated by law or by the district.
- 2.2 “Motor Vehicle Record” means traffic-related offenses contained in the Utah Division of Motor Vehicle databases.
- 2.3 “Background Check” means information on an applicant, employee, or volunteer that may include, but is not limited to, criminal history reports and motor vehicle record checks.
- 2.4 “Volunteer” means a person who is not a district employee, who is recommended by an administrator to volunteer in the district, and who will be given significant unsupervised access to a student or students in connection with the volunteer’s assignment. For purposes of this policy, “volunteer” does not include an officer or employee of a cooperating employer which has an internship safety agreement with the district and has conducted their own background checks.
- 2.5 “Licensed Employee” means an employee of the district who is required to hold a professional license issued through the Utah State Board of Education
- 2.6 “Non-licensed Employee” means an employee of the district who is not required to hold a professional license issued through the Utah State Board of Education

3.0 BACKGROUND CHECKS REQUIRED FOR EMPLOYEES AND THOSE WHO DRIVE DISTRICT VEHICLES

- 3.1 The district requires a fingerprint/criminal history report, pursuant to Utah law, for applicants, volunteers, and employees.
 - 3.1.1 In addition, the district requires motor vehicle records on bus drivers and employees when their positions require driving as an essential job function, and on applicants recommended for hire into such positions.
 - 3.1.1.1 The district shall update motor vehicle records at least one (1) time per year for all bus drivers and any employees for whom driving is an essential job function.
- 3.2 During any person's district employment or volunteer service, the district may conduct periodic background checks at any time.
- 3.3 All candidates recommended for hire and all non-employees recommended to volunteer in the district shall submit to and pass a pre-employment or pre-volunteer fingerprint/criminal background report check as a condition of employment or as a condition of volunteering.
 - 3.3.1 All candidates recommended for hire shall be responsible for costs associated with pre-employment fingerprint/background report checks.
 - 3.3.1.1 An offer of employment made to an applicant and an employee's continued employment are contingent upon the satisfactory outcome of a background check.
 - 3.3.1.2 Candidates recommended for hire into positions which require a license issued by the Utah State Board of Education, who hold a current Utah educator license and who have passed a fingerprint/criminal background report check as part of their licensure through USBE, shall be allowed to begin work, with continued employment contingent upon school board approval.
 - 3.3.1.3 Candidates recommended for hire into positions which require a license issued by the Utah State Board of Education, who do not hold a current Utah educator license or who hold a current Utah educator license but have not passed a fingerprint/criminal background report check as part of their licensure through USBE, shall not be allowed to begin work until he/she passes a fingerprint/criminal background check.
 - 3.3.2 The district may require that individuals recommended by the school principal to volunteer in the district be responsible for fingerprint/criminal background report fees.
 - 3.3.2.1 Initial approval to volunteer and approval to continue as a volunteer are contingent upon the satisfactory outcome of fingerprint/criminal background report checks.
- 3.4 Employees and volunteers shall submit to a fingerprint background check at least once every five years.
 - 3.4.1 Non-licensed employees shall be responsible for fingerprint/criminal background report fees.
 - 3.4.2 Licensed employees shall submit to a fingerprint/criminal background check upon renewal of their professional license.

3.4.2.1 Licensed educators shall be responsible for fingerprint/criminal background report fees associated with licensure and re-licensure through the Utah State Board of Education.

3.4.3 The district may require that volunteers be responsible for costs associated with periodic fingerprint/criminal background checks.

4.0 REVIEW OF INFORMATION AND DETERMINATION OF SUITABILITY TO WORK IN THE DISTRICT

4.1 A criminal conviction does not necessarily preclude employment or approval to volunteer in the district.

4.1.1 The district has the sole and absolute discretion to determine whether the outcome of a fingerprint/criminal background report check or motor vehicle record check is satisfactory.

4.1.2 The safety and security of district students will be the foremost consideration in determining whether the outcome of a fingerprint/criminal background report check or motor vehicle report check is satisfactory.

4.1.3 District administrators shall consider each circumstance on a case-by case basis and use the following factors to determine an applicant, volunteer, or current employee's suitability to work or volunteer in the district:

4.1.3.1 type of conviction;

4.1.3.2 relevance of any conviction to the individual's position;

4.1.3.3 a history of multiple convictions that suggests a pattern of criminal behavior or bad judgment;

4.1.3.4 amount of time that has passed since a conviction and/or the completion of a sentence;

4.1.3.5 frequency and severity of the crime(s);

4.1.3.6 age of the individual at the time the crime was committed; and

4.1.3.7 evidence of rehabilitation;

4.2 The applicant, volunteer, or employee shall have opportunity to respond to any information received that is of concern to the district in compliance with district policies and procedures and applicable law.

5.0 EMPLOYEE REPORTING REQUIREMENTS

5.1 As a condition of continued employment, or as a condition of volunteering, an employee or volunteer who is arrested for the following alleged offenses shall report the arrest, citation, or charge within 48 hours or as soon as possible to the district superintendent or his/her designee:

5.1.1 Any matter involving an arrest for an alleged sex offense;

5.1.2 Any matter involving an arrest for an alleged drug-related offense;

5.1.3 Any matter involving an arrest for an alleged alcohol-related offense;

5.1.4 Any matter involving an arrest for an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;

5.1.5 Any matter involving an alleged felony offense under Utah Code Title 76, Chapter 6, Offenses Against Property;

- 5.1.6 Any matter involving an alleged crime of domestic violence under Utah Code Title 77, Chapter 36 Cohabitant Abuse Procedures Act; and
- 5.1.7 Any matter involving an alleged crime under federal law or another state's law comparable to any of the alleged crimes listed above.
- 5.2 As a condition of continued employment, or as a condition of volunteering, an employee or volunteer shall report to the district superintendent or his/her designee any felony or misdemeanor convictions, including pleas in abeyance and diversion agreements, within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance, or diversion agreement.
 - 5.2.1 The district superintendent or designee shall report felony or misdemeanor conviction, arrest, or offense information received from licensed educators to USBE within 48 hours of receipt of information from licensed educators. If possible, this shall be made using the form provided by the State Superintendent of State Board of Education website.
 - 5.2.2 The employee shall report for work following the arrest and notice to the employer unless directed otherwise by the superintendent of his/her designee.
 - 5.2.3 The volunteer shall continue his/her volunteer duties following the arrest and notice to the district unless directed otherwise by the superintendent or his/her designee.
- 5.3 Supervisors shall notify Human Resources immediately upon an employee informing them of any of the matters listed in 5.1 or 5.2.
- 5.4 An employee or volunteer shall be immediately suspended from student supervision responsibilities following any allegations of sex offenses or any other alleged offenses which may endanger students, for at least the period of investigation.
- 5.5 An employee shall be immediately suspended from transporting students and from operating or maintaining public education vehicles following any alleged offenses involving alcohol or drugs, for at least the period of investigation.

6.0 DISTRICT REVIEW AND DETERMINATION

- 6.1 District administration shall establish procedures for reviewing arrest information and making employment decisions that protect both the safety of students and the confidentiality and due process rights of employees.
- 6.2 Upon receipt of background check results, and upon receipt of self-reported arrest or conviction information, the district shall determine what, if any, action is warranted.
 - 6.2.1 The district shall assess the employment status of a licensed public education employee consistent with the Utah Educator Standards, Utah Code Section 53E-6-604, R277-515, and applicable district policy.
 - 6.2.2 The district shall assess the employment status of a non-licensed public education employee and the volunteer status of a school district volunteer, taking into consideration the employee's or volunteer's assignment and district policy.
- 6.3 The applicant, volunteer, or employee shall have opportunity to respond to any information received that is of concern to the district in compliance with district

policies and procedures and applicable law.

7.0 CONFIDENTIALITY, STORAGE, AND RETENTION OF RECORDS

- 7.1 An applicant, volunteer, or employee's background check report and additional information received regarding a background check report are confidential.
- 7.2 The district will use information from an applicant, volunteer, or employee's background check report only for the district's internal purposes when determining the suitability of an applicant, volunteer, or employee for work or volunteer service in the district.
- 7.3 District administration shall develop procedures and timelines for maintaining records of employee and volunteer arrests and convictions.
 - 7.3.1 Records shall include final administrative determinations and actions following investigation; and
 - 7.3.2 Records shall be maintained only as necessary to protect the safety of students and with strict requirements for the protection of confidential employment information.
 - 7.3.3 The district shall keep all background check information documents in a secure location that is accessible only to persons who need to know the information to carry out their job responsibilities.
 - 7.3.4 The district stores criminal background check reports along with any additional documentation created or received regarding these reports, and retains the reports and related documentation according to State of Utah record retention guidelines for school districts.

8.0 CONSEQUENCES

- 8.1 Applicants are subject to non-selection based on the results of a background check, for refusal to submit to a background check, and/or for the failure to disclose information relevant to the background check if requested during the application and selection process.
- 8.2 Employees are subject to discipline, up to and including termination, based on the results of their background checks, for refusal to submit to a background check, and/or for failure to report arrests and convictions as outlined in this policy.
- 8.3 Volunteers are subject to non-approval based on the results of their background checks, for refusal to submit to a background check, and/or for failure to report arrests and convictions as outlined in this policy.
- 8.4 The district shall immediately suspend an employee from student supervision responsibilities, or a volunteer from service to the district, pending the outcome of an investigation upon receipt of information concerning alleged sex offenses, alleged offenses involving alcohol or drugs, and any other alleged offenses which may, in the opinion of district administration, endanger students.
 - 8.4.1 Additionally, the district shall immediately suspend an employee from transporting students or from operating or maintaining district vehicles for alleged offenses involving alcohol or drugs pending the outcome of an investigation.
 - 8.4.2 Further, the district shall exclude any person from employment or volunteer service, and shall take action to terminate employment, when a

background check reveals that individual has exhibited behavior that is violent or harmful to children or adults.