Washington County School District
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Saint George, Utah 84770
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District Policy 1101

Criminal Background Check and Employee Reporting of Arrests

Personnel Administration Washington County School District - Revised (Policy 1100.3.10) 11-10-09; Revised 3-8-11; Revised 3-4-14; Revised 12-8-15

1. Purpose:

The purpose of this policy is to protect the safety, health, and security, of Washington County School District students, employees, and property. Further, this policy is intended to ensure that all students of Washington County School District are instructed and served by public school teachers and employees who have not violated laws that would endanger students in any way.

2. Policy Criminal Background Checks:

2.1. Individuals Subject to Background Checks

2.1.1. Potential employees must submit to a criminal background check and ongoing monitoring as a condition for employment or appointment.

2.1.2. Volunteers with significant unsupervised access to a student in connection with the volunteer's assignment must submit to a criminal background check and ongoing monitoring as a condition of service. Until the background check is complete, the volunteer must remain under the supervised observation of a District employee.

2.1.3. A representative (individual, employee, and/or agent) of company or organization having established an arrangement or agreement with the District to provide services to the school (such as food service vendors with casual access to students), or services with direct student access must submit to a District conducted criminal background check and ongoing monitoring. The organization or representative shall pay the cost of the background check. The arrangement of the organization or company shall include a provision for the District to require the representative to sign a release enabling the District to perform the check. Information obtained from the check may be used as a basis to refuse access of the representative to the school, District, or student, at the sole discretion of the District. Failure to comply with this

provision shall be basis for termination of the arrangement or agreement with the company or organization.

2.1.4. A background check may be required for the renewal of any Utah educator license in accordance with Utah Administrative Code R277-302.

2.1.5. Where reasonable cause exists the District may require an existing employee or volunteer to submit to a criminal background check.

2.2. Conducting the Background Check

2.2.1. Applicants and volunteers shall complete a Washington County School District supplemental questionnaire Form 508 as a condition of employment. The questionnaire requires self-disclosure of criminal misconduct or violations of the law. The information obtained from the background check and the self-disclosure of information from a completed supplemental questionnaire will be compared for accuracy. Any misstatement, omission, or misinformation on the supplemental questionnaire is grounds to not hire or for dismissal.

2.2.2. The applicant, volunteer, representative, or employee shall be required to sign a release enabling the District to perform the background check. Refusal to sign the release will be used as the sole basis to refuse employment, access, or participation in volunteer activities. Current employees who decline to sign the release form will be subject to disciplinary action up to and including dismissal from employment.

2.2.3. The District will access law enforcement records from both regional and national criminal data files, when conducting background checks.

2.3. Payment for Background Check

2.3.1. Applicants for employment, including substitutes, shall be required to pay the designated cost of background checks subject to the provisions of UCA § 53-10-108 and District Policy.

2.3.2. Non-licensed employees shall pay the designated cost toward the cost of background checks as required in paragraph 2.8 through the District Office. Licensed employees shall pay for the cost of background checks as required by USOE.

2.3.3. The school or organization of assignment shall pay the cost of background checks from designated school or organization of assignment funds for individuals serving as volunteers.

2.4. Licensed Educators Required Reports of Arrest or Booking:

2.4.1. A licensed educator who is arrested, booked, cited, or charged with the following alleged offenses shall report the incident as soon as possible or within 48 hours to Human Resources:

• any matters involving an alleged sex offense;

• any matters involving an alleged drug-related offense;

• any matters involving an alleged alcohol-related offense;

• any matters involving an alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person;

• any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

• any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and

• any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed above.

2.4.2. The licensed educator shall also report, to Human Resources, any convictions, including convictions identified above, any pleas in abeyance, and any diversion agreements within 48 hours or as soon as possible upon receipt of notice of conviction, plea in abeyance or diversion agreement.

2.4.3. A principal or supervisor shall report offense information received from the licensed educator as soon as reasonably possible to Human Resources.

2.4.4. The Director of Human Resources or designee shall electronically report arrest or offense information received from licensed educators to the Utah State Board of Education (USBE).

2.4.5. The licensed educator shall report for work following the arrest and notice to the principal/supervisor unless directed not to report for work by administration.

2.5. Non-licensed Public Employees or Volunteers Personal Reporting of Arrest or Booking:

2.5.1. Non-licensed public education employees or volunteers must notify Human Resources as soon as possible, but no later than 48 hours after being cited, charged with, booked, arrested, convicted, or agreeing to a plea in abeyance or diversion agreement for any of the following crimes, regardless of the imposition of sentence:

• convictions, including pleas in abeyance and diversion agreements;

• any matters involving arrests for an alleged felony;

• any arrests for matters involving minors;

• any matters involving alleged sex offenses;

• any matters involving alleged drug-related offenses;

• any matters involving alleged alcohol-related offenses;

• any matters involving alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person; and

• any matters involving minors.

2.5.2. Supervisors must notify Human Resources immediately upon an employee informing them of any of the matters listed above.

2.5.3. The supervisor or administrator shall report offense information received from the employee as soon as reasonably possible to the Human Resources Department.

2.6. Review and Investigation

2.6.1. A criminal conviction does not necessarily preclude employment with the District. The District has the sole and absolute discretion to determine whether the outcome of a criminal background check will result in administrative action to include the decision to terminate employment or the decision to not hire. Likewise, the dismissal of a criminal offence or arrest does not necessarily preclude the District from taking administrative action.

2.6.2. The District will immediately suspend an employee from student supervision responsibilities pending the outcome of any investigation upon receipt of information concerning alleged offenses, which may endanger students or interfere with the orderly operation of the school.

2.6.3. Administration may consider both criminal and/or administrative findings. The safety and security of district students will be the foremost consideration. District Human Resources personnel consider each circumstance on a case-by-case basis and use the following factors to determine an applicant or current employee's suitability to work in
the District.

• Type of conviction;

• Relevance of any conviction to the individual's position;

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

• Amount of time that has passed since a conviction and/or the completion of a sentence;

• Frequency and severity of the crime(s);

• Age of the individual at the time the crime was committed;

• Evidence of rehabilitation.

2.7. Administrative Action and Due Process

2.7.1. 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.

2.7.2. Employees are subject to discipline, up to and including termination, based on conduct identified from the results of their background checks, for refusal to submit to a background check, and/or for failure to report a citing, booking, arrest, charge or conviction as outlined in this policy.

2.7.3. The District may take employment or disciplinary action (up to and including dismissal), refuse to consider an applicant for employment, or refuse to hire a selected applicant for any offence relevant to the subject's assignment. Offenses relevant to all District assignments include but are not limited to the following:

• any matters involving charges of felony or relevant misdemeanor offenses;

• any matters involving sex offenses;

• any matters involving drug-related offenses;

• any matters involving alcohol-related offenses;

• any matters involving offenses against a person under UCA Title 76, Chapter 5, Offenses Against the Person;

• any matters for which the subject is currently under court ordered probation;

• any offense against or pertaining to a minor;

• any class A misdemeanor property offense that is alleged to have occurred within the previous three years; or,

• any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

2.7.4. Any statement of an employee or applicant on a supplemental questionnaire (WCSD for form 508) that is later deemed to be a misstatement omission or misinformation when verified with the results of a background check is grounds to not hire or for dismissal.

2.7.5. If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the District shall provide the individual an opportunity to review and respond to any criminal history information received.

2.7.6. Information obtained from BCI in a background check is confidential within the guidelines of the Government Records and Access and Management Act (GRAMA).

2.8. All non-licensed employees, contract employees, and volunteers, employed or appointed prior to August 1, 2015, shall submit to a background check and ongoing monitoring as a condition of employment.

2.9. The District shall monitor employee records to identify individuals who have been separated from District employment and enter a removal flag in the BCI Applicant Background Check monitoring system to ensure that the District only receives notifications for individuals with whom the District maintains an authorizing relationship.

3. References and Definitions

3.1. Definitions:

3.1.1. "Licensed Educator" has the meaning given that term in UAC R277-217.

3.1.2. "Crimes Against a Person" includes assault, kidnapping, murder, manslaughter, reckless endangerment, abuse of a child or vulnerable adult, stalking, hazing, making a terroristic threat, and any other offence identified in UCA Title 76, Chapter 5.

3.1.3. "Criminal History Report" A report generated by the Bureau of Criminal Identification after a search of State of Utah criminal history files and/or other state and federal databases designed by law or by the District.

3.1.4. "Driving Record Report" Traffic-related offenses contained in the Utah Division of Motor Vehicle databases.

3.1.5. "Background Check" Information on an applicant or employee that may include but is not limited to, criminal history reports and driving records reports.

3.1.6. "Booking," (booked) for the purposes of this policy, shall refer to the process by which the police department registers and enters charges against a person believed to have violated the law. The process of booking occurs when the subject's personal information is recorded as a suspect in a crime and/or when the subject's fingerprints are taken. Both recording personal information and fingerprinting need not occur at the same time in order for a booking to occur. A booking may result from a court order, citation, or an arrest.

3.1.7. "Arrest," is a seizure or forcible restraint or the taking or keeping of a person in custody by legal authority, especially, in response to a criminal charge and/or the apprehension of someone for the purpose of securing the administration of the law.

3.2. References:

• Utah Code Annotated (UCA) § 53-10-108 – Limited Use of Records for Employment Purposes

• UCA § 53G-11 Part 4 – Background Checks

• Utah Administrative Code (UAC) R277-302 – Educator Licensing Renewal and Timelines

• UAC R277-217 – Education Employee Required Reports of Arrests