

POLICY 3035

Employee Criminal Background Checks and Arrest Disclosure Requirements

A. Definitions

1. A "licensed employee" is one who holds a valid Utah educator license.
2. A "non-licensed employee" is one who does not hold a current Utah educator license issued by the State Board of Education.
3. A "qualifying volunteer" is a volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment. For purposes of this policy, "qualified volunteer" does not include an officer or employee of a cooperating employer which has an internship safety agreement with the District.
4. A "contract employee" is an employee of a staffing service or other entity who works at a District school under a contract.
5. "Personal identifying information" means an individual's current name, former names, nicknames and aliases; date of birth, address; telephone number; driver license number or other government-issued identification number; Social Security number; and fingerprints.
6. "Criminal History Report" is a document generated by the Bureau of Criminal Identification after a search of the State of Utah's criminal history files and/or other state and federal databases designated by applicable law or by the District.
7. "Background Check" means information on an applicant or employee that may include, but is not limited to, Criminal History Reports and driving record reports.

[Utah Code § 53G-11-401\(3\), \(6\), \(7\) \(2024\)](#)

[Utah Code § 53G-11-402\(1\)\(a\)\(iii\) \(2024\)](#)

[Utah Admin. Rules R277-316-2\(5\), \(8\), \(9\), \(11\) \(February 7, 2020\)](#)

B. Employment Screening

1. ~~Utah law requires Background Checks on all prospective employees (i.e., the individual who is selected as the "successful applicant" for a particular job position in the District), substitutes and coaches (herein referred to cumulatively as the~~

~~"prospective employee") Utah Admin. Rules R277-316. Accordingly, the District requires each prospective employee to submit to a background check prior to employment or service in the District.~~

2. All persons seeking a licensed employee position with the District shall provide their educator licensing information with their application for employment.
3. Prior to employing an individual as a licensed employee, the District shall confirm the individual's license status and standing with the State Board of Education, including inquiring regarding any prior or pending disciplinary actions or complaints.
4. Upon employing an individual as a licensed employee, the District shall request that the State Board of Education provide notification to the District of any changes or updates received by the State Board through its ongoing monitoring of the individual's criminal history and background.
5. At the time a prospective employee makes application for employment with the District, such prospective employee shall fill out an employment application providing the following warning:
 - a. "All references stated in this application will be checked by the District and it is the policy of this District that false information will be grounds for rejecting your application with no further consideration for the position; or, if such false information is discovered after hire, you may be subject to immediate termination for cause. Any false information may also be the grounds for criminal prosecution."
6. All employees seeking employment with the District shall provide personal identifying information including: current name, former names, nicknames, and aliases, date of birth, address, telephone number, driver license number or other government issued identification number, social security number and fingerprints.
7. All employees, qualifying volunteers, and contract employees seeking employment with the District and who are 18 years old or older shall sign a written release, waiver and authorization which authorize the District to request information from the prospective employee's past three employers and supervisors. The release, waiver and authorization shall also authorize the District to contact former employers to obtain a reference check and to conduct a background search into the employee's criminal record, if any, or any other background check as the District deems necessary to satisfy itself of the quality and competence of the prospective employee's credentials.

[Utah Code § 53G-11-402\(1\)\(a\) \(2024\)](#)

[Utah Code § 53-10-108\(13\)\(b\)\(ii\) \(2023\)](#)

8. The District shall consider only those convictions which are job-related. The prospective employee shall have opportunity to respond to any information received as a result of the background check.
9. If a current employee is dismissed from employment because of information obtained through a background check, the person shall receive written notice of the reasons for dismissal and shall have an opportunity to respond to the reasons for the dismissal.
10. Each current employee and prospective employee must agree to have his/her fingerprints taken and sign a document of acknowledgment and waiver permitting the District to request a background check of any state or federal criminal history file that the District might deem applicable as a condition of employment.
11. The District shall, for each non-licensed employee and volunteer who will be given significant unsupervised access to a student in connection with the volunteers assignment, collect personal identifying information including: current name, former names, nicknames and aliases, date of birth, address, telephone number, driver license number or other government issued identification number, social security number and fingerprints and submit that personal identifying information to the Bureau of Criminal Identification within the Department of Public Safety.

[Utah Code § 53G-11-402 \(2023\)](#)

[Utah Admin. Rules R277-316-4](#)

C. Licensed Employees - Background Checks

1. The USBE will conduct background checks for all licensed employees in the year in which their license is to be renewed.

D. Licensed Employees - Reporting of Arrests and Convictions

1. A Licensed Educator who is arrested for any of the following alleged offenses shall report the arrest within forty-eight (48) hours or as soon as possible to the Superintendent or his/her designee:
 - a. Any matters involving arrests for alleged sex offenses;
 - b. Any matters involving arrest for alleged drug-related offenses;
 - c. Any matter involving arrests for alleged alcohol-related offenses;

- d. Any matters involving arrests for alleged offenses against the individual under [Utah Code § 76-5](#), Offenses Against the Individual. This Title and Chapter includes, but is not limited to, crimes where a person has assaulted, harassed, abused, neglected, exploited, endangered, kidnapped, murdered, trafficked, raped, sexually assaulted, etc., another person(s); and
 - e. Any matters relating to arrests for violations of the vehicle code for employees who drive motor vehicles as an employment responsibility.
 - f. Any matters involving an alleged felony offense under Utah Code Title 76, Chapter 6, Offenses Against Property;
 - g. Any matters involving an alleged crime of domestic violence under Utah Code Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and
 - h. Any matters involving an alleged crime under federal law or another state's law comparable to any of the alleged crimes listed above.
- 2. A Licensed Educator shall report convictions, including pleas in abeyance and diversion agreements, within forty-eight (48) hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance, or diversion agreement. **Failure to report any arrest or conviction pursuant to this policy may result in disciplinary action, up to, and including, termination.**
 - 3. A Licensed Educator will be immediately suspended from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation.
 - 4. A Licensed Educator will be immediately suspended from transporting students or driving a public education vehicle for alleged offenses involving alcohol or drugs during the period of investigation.
 - 5. The District will provide adequate due process for the accused employee consistent with [Utah Admin. Rules R277-316](#) and applicable administrative procedures established by the District.
 - 6. The Superintendent or his/her designee shall report a conviction, arrest, or offense information received from a Licensed Educator to the USBE.
 - 7. Records of arrests and convictions shall be placed in the employee's personnel file upon receipt by the District and will:

- a. Include final administrative determinations and actions following investigation; and
- b. Be maintained for a minimum of two (2) years following termination of employment with the District and require protection of confidential employment information ~~only as necessary to protect the safety of students and/or employees and with strict requirements for the protection of confidential employment information.~~

E. Non-Licensed Employees - Background Checks

1. All non-licensed employees, qualifying volunteers, and contract employees seeking employment with the District or service in a District school and who are subject to the background check requirement shall provide their personal identifying information with their application. "Non-licensed employees" includes substitute teachers who are not licensed by the State Board of Education. ~~The District shall conduct periodic background checks for all non-licensed employees every five (5) years. The employee shall pay the cost of the background check.~~

[Utah Code § 53G-11-402\(1\)\(b\) \(2024\)](#)

[Utah Code § 53E-6-901\(3\) \(2024\)](#)

[Utah Admin. Rules R277-316-3\(1\)\(a\) \(February 7, 2020\)](#)

2. The District shall obtain consent from each applicant who is subject to the background check requirement and who is seeking employment as a non-licensed employee or service as a qualifying volunteer or contract employee for (1) an initial fingerprint-based background check by the FBI and Bureau of Criminal Identification and (2) the retention of personal identifying information and ongoing monitoring by the Bureau of Criminal Identification. (A model consent form is included at the end of this policy.)

[Utah Code § 53G-11-402\(1\)\(b\)\(iii\) \(2024\)](#)

3. Prior to employing a non-licensed employee or permitting a contract employee or qualifying volunteer to provide service in a District school, the District shall require the individual to undergo a background check. (This requirement does not apply if the individual is younger than 18 years old.) The District shall submit the individual's personal identifying information, including fingerprints, to the Bureau of Criminal Identification for this background check.

[Utah Code § 53G-11-402\(1\)\(a\), \(c\) \(2024\)](#)

[Utah Admin. Rules R277-316-3\(1\)\(a\) \(February 7, 2020\)](#)

4. Upon employing a non-licensed employee or permitting a contract employee or qualifying volunteer to provide service in a District school, the District shall request ongoing monitoring of the individual through the Bureau of Criminal Identification unless the individual is younger than 18 years old.

[Utah Code § 53G-11-402\(1\)\(c\)\(ii\) \(2024\)](#)
[Utah Admin. Rules R277-316-3\(1\)\(a\) \(February 7, 2020\)](#)

5. At the discretion of the Superintendent or the Superintendent's appointee, if the employment or service is to be temporary or for a very short term, the non-licensed employee, contract employee, or qualifying volunteer may be exempted from ongoing monitoring.

[Utah Code § 53G-11-402\(4\) \(2024\)](#)

6. With respect to applications submitted by prospective non-licensed employees, contract employees, or qualifying volunteers, the District will pay the cost of an applicant's background check.

[Utah Code § 53G-11-402\(2\) \(2024\)](#)

F. Non-Licensed Employees - Reporting of Arrests and Convictions

1. A Non-Licensed Employee who is arrested for any of the following alleged offenses shall report the arrest within forty-eight (48) hours or as soon as possible to the Superintendent or his/her designee:
 - a. Any matters involving arrests for alleged sex offenses;
 - b. Any matters involving arrests for alleged drug-related offenses;
 - c. Any matters involving arrests for alleged alcohol-related offenses;
 - d. Any matter involving arrests for alleged offenses against the individual under [Utah Code Ann. Title 76, Chapter 5, Offenses Against the Individual](#). This Title and Chapter includes, but is not limited to, crimes where a person has assaulted, harassed, abused, neglected, exploited, endangered, kidnapped, murdered, trafficked, raped, sexually assaulted, etc., another person(s); and
 - e. Any matters relating to arrests for violations of the vehicle code for employees who drive motor vehicles as an employment responsibility.

- f. Any matters involving an alleged crime of domestic violence under Utah Code Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and
 - g. Any matters involving an alleged crime under federal law or another state's law comparable to any of the alleged crimes listed above.
- 2. Failure to report any arrest or conviction pursuant to this policy may result in disciplinary action, up to, and including, termination.
- 3. A Non-Licensed Employee will be immediately suspended from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation.
- 4. A Non-Licensed Employee will be immediately suspended from transporting students of driving a public education vehicle for alleged offenses involving alcohol or drugs during the period of investigation, and where reasonable cause exists, an existing employee must submit to a background check.
- 5. The District will provide adequate due process for the accused employee consistent with [Utah Admin. Rules R277-316](#) and applicable administrative procedures established by the District.
- 6. The ~~Assistant Superintendent~~ Human Resource Executive Director over Personnel shall review arrest information and make employment decisions that protect both the safety of students and/or employees and the confidentiality and due process rights of employees.
 - a. In making decisions in reliance on criminal history information, the District shall consider rules established by the State Board of Education and
 - 1) any convictions, including pleas in abeyance;
 - 2) any matters involving a felony; and
 - 3) any matters involving an alleged:
 - a) sexual offense;
 - b) class A misdemeanor drug offense;
 - c) offense against the person under Title 76, Chapter 5, Offenses Against the Individual;

- d) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and
- e) 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.

[Utah Code § 53G-11-405\(3\) \(2022\)](#)

[Utah Code § 53G-11-402\(3\) \(2024\)](#)

7. Records of arrests and convictions shall be placed in the employee's personnel file upon receipt by the District and will:
 - a. Include final administrative determinations and actions following investigation; and
 - b. Be maintained only as necessary to protect the safety of students and/or employees and with strict requirements for the protection of confidential employment information.
- G. When arrest/conviction information is received by the District regarding a Licensed Employee, the Superintendent or his/her designee shall review that information and assess the employment status consistent with [Utah Admin. Rules R277-316-3\(1\)\(b\) \(February 7, 2020\)](#) and District policy. The District will also report the arrest to the USBE within forty-eight (48) hours.
- H. When arrest/conviction information is received by the District regarding a Non-Licensed Employee, the Superintendent or his/her designee shall review that information and assess the employee's employment status while considering the Non-Licensed Employee's employment status consistent with applicable Utah law, rules, and regulations, District policy, and any applicable Employment Agreements or Memorandums of Understanding.
- I. Where reasonable cause exists, a current employee may be required to submit to fingerprinting and a criminal background check at the Board's expense prior to the intervallic background check.
- J. ~~If the District disqualifies an applicant as a result of criminal history obtained from a background check, the District shall give the individual written notice of the disqualification and of the individual's right to request a review of the disqualification. An administrator may obtain any information in the possession of the State Office of Education that is relevant to evaluating the employment of a current or prospective employee of the school. If a decision is made not to hire a prospective employee or to~~

~~take action against a current employee based upon such information, the individual affected shall be given notice of the information and be provided an opportunity to refute or respond to the information. An administrator who, in good faith, discloses or receives information under this section is exempt from civil liability relating to that receipt or disclosure.~~

[Utah Code § 53G-11-405\(1\)\(c\) \(2022\)](#)

1. ~~An individual disqualified by the District as a result of a background check may request a review of the information received by the District through the background check and of the reasons for the disqualification and may respond to the information and the reasons for disqualification. The District shall, consistent with the requirements of [Utah Code § 53-10-108](#), allow the individual to review the criminal history information received by the District.~~

[Utah Code § 53G-11-405\(1\)\(a\), \(b\) \(2022\)](#)

- K. The District shall cooperate with the USBE in investigations of Licensed Educators.
- L. ~~The employee shall report for work following the arrest unless directed not to report for work by the District, consistent with District policy.~~
- M. ~~Failure to report any arrest or conviction pursuant to this policy may result in disciplinary action, up to, and including, termination.~~
- N. ~~Any district volunteer who has or may be given significant unsupervised access to children in connection with the volunteer's assignment for the District shall be considered an "employee" for purposes of the requirements of this policy.~~

[Utah Admin. Rules R277-217-4 \(January 10, 2024\)](#)

[Utah Admin. Rules R277-316-4 \(February 7, 2020\)](#)

[Utah Admin. Rules R277-316-6 \(February 7, 2020\)](#)

[Utah Code § 53E-6-604 \(2024\)](#)

[Utah Code § 53G-11-406\(1\) \(2019\)](#)

References:

[Utah Code § 53E-6-401](#)

[Utah Code § 76-5, Offenses Against the Individual](#)

[Utah Admin. Rules R277-316](#)

**Disclosure and Consent for Employment / Reference Checks
and Release of Liability (Licensed)**

I understand that previous employment and my submitted references may be checked by the District. I affirm by my signature that (1) I have disclosed the employer for every prior paid position I have held where my job responsibilities included directly caring for, supervising, controlling, or having custody of anyone under 18 years of age; (2) I consent to past and present employer(s) and references disclosing to the District any and all information, including disciplinary records, which may be pertinent to my employment, and that such information includes, but is not limited to, all information relating to any employment action or discipline imposed for abuse of any child or student; and (3) I understand that if I am hired, any information obtained or maintained by the District may be disclosed to any future subsequent potential employer of mine who contacts the District for an employment or reference check.

I hereby waive any right to see any written material(s) submitted to the District in response to the above inquiries or notes of oral communication relative to such inquiries. I understand that if I am hired by the District any information received in response to the above inquiries is placed in my personnel file, and I may be denied the right to inspect such material(s).

By signing below, I agree to release the District from any action for damages relating to the District's refusal to hire me as a result of information obtained during a reference or background check. I agree to release the District from any action for damages relating to information disclosed by the District to any future subsequent potential employer of mine who contacts the District for an employment or reference check.

I understand that providing false information to the District as part of the application process will be grounds for rejecting an application with no further consideration for the position; or, if such false information is discovered after hire, I will be subject to immediate termination for cause. Any false information may also be the grounds for criminal prosecution. I agree to release the District from any cause of action for damages as a result of the District's termination of my employment as a result of falsifying any information included in this application.

Signature_____ Date_____

**Disclosure and Consent for Employment / Reference Checks and Release of Liability
(Non-Licensed)**

I understand and acknowledge that: (1) in considering my application for employment, _____ School District ("the District") is legally required to obtain a nationwide (FBI) criminal background check and (if I am hired) ongoing criminal history monitoring while I work for the District; (2) information provided to the District (including fingerprints) will be used for this purpose; (3) the background check process must meet the requirements of Utah Code § 53-10-108(4); (4) procedures for obtaining a change, correction, or updating your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34; (5) I have received (on the fingerprint card form) the FBI Privacy Act Statement and have received the FBI Noncriminal Justice Applicant's Privacy Rights; (6) the background check results will be used to decide whether to employ me and will only be provided to those investigating or involved in the hiring process; (7) I may obtain my criminal history information from the Utah Bureau of Criminal Identification; and (8) if my application is rejected based on criminal background information I will be given written notice of the disqualifying reasons and of the right to request review of the disqualification. My signature affirms this acknowledgment and my consent to the District obtaining the initial check and ongoing monitoring while I work for the District.

I understand that previous employment and my submitted references may be checked by the District. I affirm by my signature that (1) I have disclosed the employer for every prior paid position I have held where my job responsibilities included directly caring for, supervising, controlling, or having custody of anyone under 18 years of age; (2) I consent to past and present employer(s) and references disclosing to the District any and all information, including disciplinary records, which may be pertinent to my employment, and that such information includes, but is not limited to, all information relating to any employment action or discipline imposed for abuse of any child or student; (3) I understand that if I am hired, any information obtained or maintained by the District **except for** criminal background check information may be disclosed to any future subsequent potential employer of mine who contacts the District for an employment or reference check.

I hereby waive any right to see any written material(s) submitted to the District in response to the above inquiries or notes of oral communication relative to such inquiries, **except** criminal background information, which I may obtain from the Bureau of Criminal Identification. I understand that if I am hired by the District any information received in response to the above inquiries is placed in my personnel file, and I may be denied the right to inspect such material(s).

By signing below, I agree to release the District from any action for damages relating to the District's refusal to hire me as a result of information obtained during a reference or background check. I agree to release the District from any action for damages relating to information disclosed by the District to any future subsequent potential employer of mine who contacts the District for an employment or reference check.

I understand that providing false information to the District as part of the application process will be grounds for rejecting an application with no further consideration for the position; or, if such false information is discovered after hire, I will be subject to immediate termination for cause. Any false information may also be the grounds for criminal prosecution. I agree to release the District from any cause of action for damages as a result of the District's termination of my employment as a result of falsifying any information included in this application.

Signature _____ Date _____

**Disclosure and Consent for Employment / Reference Checks
and Release of Liability (Volunteer)**

I understand and acknowledge that: (1) in considering my application to volunteer with _____ School District ("the District"), the District is legally required to obtain a nationwide (FBI) criminal background check and (if I am given certain assignments) ongoing criminal history monitoring while I serve in the District; (2) information provided to the District (including fingerprints) will be used for this purpose; (3) the background check process must meet the requirements of Utah Code § 53-10-108(4); (4) procedures for obtaining a change, correction, or updating of your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16.34; (5) I have received (on the fingerprint card form) the FBI Privacy Act Statement and have received the FBI Noncriminal Justice Applicant's Privacy Rights; (6) the background check results will be used to decide whether to give me certain assignments and will only be provided to those investigating or involved in the assignment process; (7) I may obtain my criminal history information from the Utah Bureau of Criminal Identification; and (8) if my application is rejected based on criminal background information I will be given written notice of the disqualifying reasons and of the right to request review of the disqualification. My signature affirms this acknowledgment and my consent to the District obtaining the initial check and ongoing monitoring while I serve in the District.

I understand that previous employment and my submitted references may be checked by the District. I affirm by my signature that (1) I have disclosed the employer for every prior paid position I have held within the prior three years where my job responsibilities included directly caring for, supervising, controlling, or having custody of anyone under 18 years of age; and (2) I consent to past and present employer(s) and references disclosing to the District any and all information, including disciplinary records, which may be pertinent to my application, and that such information includes, but is not limited to, all information relating to any employment action or discipline imposed for abuse of any child or student.

I hereby waive any right to see any written material(s) submitted to the District in response to the above inquiries or notes of oral communication relative to such inquiries, **except** criminal background information, which I may obtain from the Bureau of Criminal Identification. I understand that if I am accepted by the District any information received in response to the above inquiries is placed in my service file, and I may be denied the right to inspect such material(s).

By signing below, I agree to release the District from any action for damages relating to the District's refusal to accept me as a result of information obtained during a reference or background check. I agree to release the District from any action for damages relating to information disclosed by the District to any future subsequent potential employer of mine who contacts the District for a reference check.

I understand that providing false information to the District as part of the application process will be grounds for rejecting an application with no further consideration for the position; or, if such false information is discovered after hire, I will be subject to immediate dismissal. Any false information may also be the grounds for criminal prosecution. I agree to release the District from any cause of action for damages as a result of the District dismissing me as a result of falsifying any information included in this application.

Signature _____ Date _____