

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 ~~as provided by [Policy 3060 Student Teachers and Interns](#)~~.
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. 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."
3. 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.
4. 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.
- ~~5. The prospective employee shall pay the cost of the background check.~~
6. 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.
7. 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.

8. 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.
9. 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. ~~The employee shall pay the cost of the background check.~~

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.
 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.
 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 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. 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.
- 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.
2. 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.
3. 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.
4. 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.
5. The Assistant Superintendent 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.
6. 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. 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.
- K. The District shall cooperate with the USBE in investigations of Licensed Educators.

References:

[Utah Code § 53E-6-401](#)
[Utah Code § 76-5, Offenses Against the Individual](#)
[Utah Admin. Rules R277-316](#)