

Davis School District Policy and Procedures

Subject: 2HR-201 Employee and Volunteer Background Checks and Employee Personal Reporting of Arrests

Index: Human Resources

Revised: May 5, 2020

1. PURPOSE AND PHILOSOPHY

The Board of Education of Davis School District (Board) enacts this policy in an effort to protect the safety, health, and security of Davis School District (District) students, employees, and property.

2. CRIMINAL BACKGROUND CHECKS

In order to protect the health and safety of all students and employees, and to protect the property of the District, individuals desiring to be employed by or volunteer to perform services for the District shall submit to a national criminal background check and ongoing monitoring as a condition for employment or appointment as follows:

2.1. Initial Fingerprint-based Background Checks

2.1.1. A potential employee, whether licensed, non-licensed, contract, or substitute, shall submit to a criminal background check and consent to ongoing monitoring prior to beginning service.

2.1.2. A volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment shall submit to a nationwide criminal background check and consent to ongoing monitoring prior to being authorized to serve as a volunteer.

2.2. Ongoing Monitoring

2.2.1. Upon submission of an individual's initial fingerprint background check to the Utah Bureau of Criminal Identification (BCI), the District shall request BCI to register the individual's personally identifying information for the purpose of conducting ongoing monitoring. BCI will notify the District when a new entry is made against an individual whose fingerprints are registered with the rap back systems.

2.2.2. Where reasonable cause exists, the District may require an existing employee or volunteer to submit to a criminal nationwide background check or review the individual's criminal history.

2.3. A background check and ongoing monitoring shall include driving record reports on applicants and employees when their positions require driving as an essential job function. The District shall update driving records:

2.3.1. every six (6) months for bus drivers; and

2.3.2. at least one (1) time per year for any other employee for whom driving is an essential job function.

2.4. Conducting the Background Check

2.4.1. The applicant, volunteer, or employee shall receive written notice that the background check has been requested.

2.4.2. The applicant, volunteer, or employee shall be required to sign the release form and submit to the background check and ongoing monitoring.

2.4.3. The background check and ongoing monitoring will include, but not be limited to, a fingerprint check conducted by the Human Resources Department, the FBI., and the Utah Bureau of Criminal Identification.

2.5. Payment for Background Check

2.5.1. Applicants for employment, including substitutes, shall be required to pay the designated costs of background checks subject to the provisions of Utah Code Ann. §53G-11-402(2).

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- 2.5.2. A volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment **may** be required to pay the designated costs of background checks.
- 2.5.3. An employee **shall** be required to pay the designated costs of periodic reviews of criminal history as a condition of continued employment or re-licensure.
- 2.5.4. The District shall pay the cost of background checks and/or reviews for employees or volunteers when initiated for reasonable cause rather than as a condition of continued employment or re-licensure.

3. REVIEW OF INFORMATION AND DETERMINATION OF SUITABILITY TO WORK IN THE DISTRICT

Upon receipt of background check results, the District shall determine what, if any, action is warranted. A criminal record 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 or driving record check disqualifies an individual from the position being held or sought. The safety and security of District students will be the foremost consideration.

- 3.1. District personnel shall provide an opportunity for an individual to review and respond to any criminal history information received under this policy.
- 3.2. The District shall consider each circumstance on a case-by-case basis to determine an applicant or employee's suitability to work in the District. [Utah Code Ann. §53G-11-405\(3\)](#) requires the District consider the following:
 - 3.2.1. any convictions, including pleas in abeyance;
 - 3.2.2. any matters involving a felony; and
 - 3.2.3. 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 Person;
 - [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.
- 3.3. In reviewing criminal history records, factors considered include, but are not limited to, the following:
 - 3.3.1. type of conviction;
 - 3.3.2. relevance of any conviction to the individual's position;
 - 3.3.3. a history of multiple convictions that suggest a pattern of criminal behavior or bad judgment;
 - 3.3.4. amount of time that has passed since a conviction and/or the completion of a sentence;
 - 3.3.5. age of the individual at the time the crime was committed;
 - 3.3.6. evidence of rehabilitation.
- 3.4. An individual who is disqualified as a result of information obtained through a criminal background check or review shall receive written notice of the reasons for disqualification, have opportunity to respond to the reasons, and request a review of the disqualification.
- 3.5. Information obtained through background checks is confidential and may only be disclosed as provided in Utah Code Ann. Title 53G, Chapter 11, Part 4.

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4. RISK MITIGATION

In order to ensure the District only receives criminal history notifications for individuals with whom the District maintains a relationship as an employee or authorized volunteer, the District shall:

- 4.1. upon receiving notification of criminal activity, review the current status of the individual in relation to the District; and
- 4.2. decline to accept and review the detail of the notification if the individual named is no longer employed or authorized to volunteer by the District.

5. SELF REPORTING OF ARREST AND COURT ACTION

5.1. Personal Reporting of Arrest

- 5.1.1. A District employee who is arrested, cited or charged with the following alleged offenses shall report the arrest, citation, or charge as soon as possible or within 48 hours to the employee's principal or supervisor:
 - [a] any matters involving an alleged sex offenses;
 - [b] any matters involving an alleged drug-related offenses;
 - [c] any matters involving an alleged alcohol-related offenses; and
 - [d] any matters involving an alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person;
 - [e] any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;
 - [f] any matters involving an alleged crime of domestic violence under Title 77 Chapter 36, Cohabitant Abuse Procedures Act; and
 - [g] any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed here.
- 5.1.2. A District employee shall report, to their principal or supervisor, convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of conviction, plea in abeyance or diversion agreement.
- 5.1.3. A principal or supervisor shall report offense information received from the employee as soon as reasonably possible to the Human Resources Department.
- 5.1.4. The Human Resources Department shall electronically report arrest or offense information received from licensed educators to the Utah State Board of Education (USBE) within 48 hours through the USBE website.
- 5.1.5. The employee shall report for work following the arrest and give notice to the principal/supervisor unless directed not to report for work by the District.

5.2. Review, Investigation, and Suspension

- 5.2.1. The Human Resources Department, in cooperation with the employee's principal or supervisor, shall review arrest information and:
 - [a] assess the employment status considering the employee's assignment and the District's policy regarding ethical conduct;
 - [b] if the employee is a licensed educator, assess the employment status considering the provisions of [Utah Code Ann §53E-6-604](#) and Utah Administrative Code R277-217; and
 - [c] make employment decisions that protect both the safety of students and the confidentiality and due process rights of the employee.
- 5.2.2. An employee shall be immediately suspended from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation.

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5.2.3. An employee shall be immediately suspended from transporting students or District vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation.

6. DUE PROCESS

An employee dismissed from employment shall receive written notice of the reasons for denial or dismissal and have opportunity to respond to the reasons under procedures set forth in District [Policy 2HR-004 Employee Discipline and Dismissal Policy](#).

7. RECORDS

Records of arrests and convictions of employees, including the final administrative determination and actions following the investigation shall be maintained and protected in accordance with District [Policy 2HR-300 Personnel Records](#).

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DEFINITIONS

“Crimes against a person” Means any matters involving arrests for alleged offenses against the person under Utah Code Ann., Title 76, Chapter 5, Offenses Against the Person. 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).
“Rap back system” means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
“Reasonable Cause” means reliable information implicating an employee or volunteer in a sexual offense against a minor, an offense involving drugs, or other offense which is relevant to the subject’s assignment.

REFERENCES

[Utah Code Ann. §53-10-108](#) – Limited use of records for employment purposes.

[Utah Code Ann. §53E-6-401](#) – Background checks.

[Utah Code Ann. §53E-6-604](#) – Board disciplinary action against educator.

[Utah Code Ann. Title 53G, Chapter 11, Part 4](#) – Background Checks.

[Utah Code Ann. Title 76, Chapter 5](#) – Offenses Against the Person.

[Utah Code Ann. Title 76, Chapter 6](#) – Offenses Against Property.

[Utah Administrative Code R277- 217](#)– Educator Standards and LEA Reporting

[Utah Administrative Code R277-316](#) – Professional Standards and Training for Non-licensed Employees and Volunteers.

DOCUMENT HISTORY:

Adopted: February 2, 1993

Revised: November 3, 2009 – Updated to comply with Administrative Rules. Education employees required to report arrests for certain offenses to their principal or supervisor. Non-licensed employees required to undergo a criminal background check at least every six-years. Educators required to undergo a background check when requesting license renewal.

Revised: August 17, 2010 – Law now allows school district to require an applicant or employee in a classified position to pay for the costs of a criminal background check.

Revised: September 22, 2010 (by consent) – As part of a five-year review, including a reorganization of the Table of Contents, policy was renumbered from 2HR-012 to 2HR-201. No substantive changes required.

Revised: January 28, 2014 – Clarifying, non-substantive change consistent with practice.

Revised: December 10, 2014 – Reformatted made non-substantive changes.

Revised: October 19, 2015 – Updated consistent with changes to state law and administrative rule requiring individuals desiring to be employed by or volunteer to perform services for the District to submit to a criminal background check and ongoing monitoring as a condition for employment or appointment.

Revised: August 16, 2016 – Non-substantive changes due to legislative changes.

March 8, 2018 - Education code references updated in accordance with 2018 recodification.

Revised: May 5, 2020 - Updated administrative rule references. Deletes language that no longer applies.