

Cache County School District Policy Series 5000: Personnel

Policy No. 5120

Background Checks and Arrest Disclosure Requirements

Cache County School District is committed to providing a safe and secure educational and working environment for students and employees. As part of this effort, the District requires criminal background checks of licensed and non-licensed employees pursuant to Utah state laws, rules, and regulations, and in accordance with this policy.

I. Definitions

- A. "Licensed Educators" or "Licensed Employees" are individuals who hold a valid Utah educator license and have satisfied all requirements to be a Licensed Educator in the Utah public school system or is on a Letter of Authorization from the Utah State Office of Education (USOE) (i.e., school teachers, school administrators, psychologists, counselors, specialists, licensed substitute teachers, etc.). Licensed Educators may or may not be employed in a position that requires an educator license. Licensed Educators include individuals who are student teaching, who are involved in the alternative routes to licensure program, and individuals who hold District specific licenses.
- B. "Non-Licensed Employees" are all other employees of the District, except "Licensed Employees." Non-Licensed Employees include, but are not limited to, the "Classified Employees" in the District.
- C. "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.
- D. "Background Check" means information on an applicant or employee that may include, but is not limited to, Criminal History Reports and driving record reports.

II. Employment Screening

- A. 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, coaches, and volunteers who have significant unsupervised access to students (herein referred to cumulatively as the "prospective employee") (Utah Code Ann., (53G-11-403). Accordingly, the District requires each prospective employee to submit to a Background Check prior to employment or service in the District.
- B. The prospective employee shall pay the cost of the Background Check, except as otherwise provided herein. The Background Check is a condition of employment or volunteering if: (a) the prospective employee is selected as the "successful applicant" for the particular job or volunteer position; and (b) the prospective employee has not been the subject of a Background Check of similar scope during the preceding two (2) years that was requested by the USOE.
- C. The District shall consider only those convictions which are job-related. The prospective employee shall have opportunity to respond to any information received as

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a result of the Background Check. In no case will the prospective employee be shown or given a copy of the Criminal History Report.

- D. The District shall resolve any request for review by the prospective employee through applicable administrative procedures established by the District.
- E. 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 have an opportunity to respond to the reasons for the dismissal.
- F. 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 or volunteering. Student employees under the age of eighteen (18) years are not required to be fingerprinted.

III. Licensed Employees - Background Checks

- A. The USOE will conduct Background Checks for all Licensed Employees in the year in which their license is to be renewed.

IV. Licensed Employees - Reporting of Arrests and Convictions

- A. A Licensed Educator who is arrested for any of the following alleged offenses shall report the arrest within forty-eight (48) hours of as soon as possible to the Superintendent of his/her designee:
 - 1. any matters involving arrests for alleged sex offenses;
 - 2. any matters involving arrest for alleged drug-related offenses;
 - 3. any matter involving arrests for alleged alcohol-related offenses;
 - 4. 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); and
 - 5. any matters relating to arrests for violations of the vehicle code for employees who drive motor vehicles as an employment responsibility.
- B. 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.
- C. 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.
- D. 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.
- E. The District will provide adequate due process for the accused employee consistent with Utah Code Ann., 53G-11- 403) and applicable administrative procedures established by the District.
- F. The Superintendent or his/her designee shall report a conviction, arrest, or offense information received from a Licensed Educator to the USOE.

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G. Records of arrests and convictions shall be placed in the employee's Personnel File upon receipt by the District and will:

1. include final administrative determinations and actions following investigation; and
2. be maintained only as necessary to protect the safety of students and/or employees and with strict requirement for the protection of confidential employment information.

V. Non-Licensed Employees - Background Checks

A. The District shall conduct periodic Background Checks for all Non-Licensed Employees every six (6) years.

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

A. 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:

1. any matters involving arrests for alleged sex offenses;
2. any matters involving arrests for alleged drug-related offenses;
3. any matters involving arrests for alleged alcohol-related offenses;
4. any matter 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); and
5. any matters relating to arrests for violations of the vehicle code for employees who drive motor vehicles as an employment responsibility.

B. 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. C. 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.

D. The District will provide adequate due process for the accused employee consistent with Utah Code Ann., (53G-11- 403) and applicable administrative procedures established by the District.

E. The Director of Human Resources 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.

F. Records of arrests and convictions shall be placed in the employee's Personnel File upon receipt by the District and will:

1. include final administrative determinations and actions following investigation; and
2. 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.

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VII. District Responsibilities

- A. 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 Code Ann., [53E-6-604](#), Utah Administrative Code, R277-515, and District policy. The District will also report the arrest to the USOE within forty-eight (48) hours.
- B. 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.
- C. The District shall cooperate with the USOE in investigations of Licensed Educators.

Legal References:

Utah Administrative Code, R277-516

Utah Code Ann., Title 76, Chapter 5, Offenses Against the Person

Utah Code Ann., 53E-6-401

Utah Code Ann., 53A-3-410

Synopsis:

Approved by the Board of Education: November 19, 2009