

Employment: Background Checks

Definitions—

A “licensed employee” is one who holds a current Utah educator license issued by the State Board of Education.

A “non-licensed employee” is one who does not hold a current Utah educator license issued by the State Board of Education.

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, “qualifying volunteer” does not include an officer or employee of a cooperating employer which has an internship safety agreement with the District as provided in Policy EDH.

A “contract employee” is an employee of a staffing service or other entity who works at a District school under a contract.

“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.

[Utah Code § 53G-11-401\(3\), \(6\), \(7\) \(2019\)](#)

[Utah Code § 53G-11-402\(1\)\(a\)\(iii\) \(2020\)](#)

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

Application Notice and Waiver Regarding Background Checks—

At the time a prospective employee or qualifying volunteer applies for employment or service with the District, such prospective employee or qualifying volunteer shall fill out an application providing the following warning:

“All references stated in this application will be checked by the School District and it is the policy of this School 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 will be subject to immediate termination for cause. Any false information may also be the grounds for criminal prosecution.”

All employees, qualifying volunteers, and contract employees seeking employment with the District or service in a District school and who are 18 years of age or older shall sign a written consent, release, waiver, and authorization which authorizes the District to request information from the individual's past employers and supervisors. The consent, release, waiver, and authorization shall also authorize the District to contact any applicable licensing agency and former employers to obtain a background check, including 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 individual's credentials including submitting personal identifying information to the Bureau of Criminal Identification within the Department of Public Safety and retaining the personal identifying information for ongoing monitoring.

[Utah Code § 53G-11-402\(1\)\(a\) \(2020\)](#)

[Utah Code § 53-10-108\(13\)\(b\)\(ii\) \(2019\)](#)

Criminal Background Check and Monitoring for Licensed Employees—

All persons seeking a licensed employee position with the District shall provide their educator licensing information with their application for employment.

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.

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.

Criminal Background Check for Non-Licensed Employees and Volunteers—

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.

[Utah Code § 53G-11-402\(1\)\(b\) \(2020\)](#)

[Utah Code § 53E-6-901\(2\) \(2018\)](#)

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

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\(1\)\(b\)\(iii\) \(2020\)](#)

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\(1\)\(a\), \(c\) \(2020\)](#)

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

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\(1\)\(c\)\(ii\) \(2020\)](#)

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

In 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\(5\) \(2020\)](#)

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, except that if the following are true, the District will require an applicant to pay the costs of the background check as a condition for consideration for employment or service:

1. The applicant has passed an initial review; and
2. The application is one of a pool of no more than five candidates for a position.

[Utah Code § 53G-11-402\(2\) \(2020\)](#)

Use of Criminal History and Background Check Information—

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 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.

[Utah Code § 53G-11-405\(3\) \(2019\)](#)

[Utah Code § 53G-11-402\(4\) \(2020\)](#)

Information obtained pursuant to a criminal background check is confidential and may only be disclosed as provided herein.

Due Process—

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.

[Utah Code § 53G-11-405\(1\)\(c\) \(2019\)](#)

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\(1\)\(a\), \(b\) \(2019\)](#)

Privacy Risk Mitigation: Discontinuing Monitoring—

Upon termination of District employment of a licensed employee (whether by retirement, resignation, termination with or without cause, non-renewal, or any other reason), the District shall by written notice to the Utah State Board of Education request that the State Board cease to notify the District of information received by the State Board through its ongoing monitoring of the individual's criminal history and background.

[Utah Code § 53G-11-402\(1\)\(d\) \(2020\)](#)

[Utah Code § 53-10-108\(13\)\(b\)\(iii\) \(2019\)](#)

Upon termination of District employment or service of a non-licensed employee, contract employee, or qualifying volunteer (whether by retirement, resignation, termination with or without cause, non-renewal, or any other reason), the District shall by written notice to the Bureau of Criminal Identification request that the Bureau discontinue its ongoing monitoring of the individual's criminal history and background and notices to the District regarding changes to criminal history and background.

[Utah Code § 53G-11-402\(1\)\(d\) \(2020\)](#)

[Utah Code § 53-10-108\(13\)\(b\)\(iii\) \(2019\)](#)

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

Updating Information for Existing Employees—

By September 1, 2018, the District shall, for each non-licensed employee and qualifying volunteer to whom the background check requirement would apply if they were beginning service with the District, collect that individual's personal identifying information and submit that information to the Bureau of Criminal Identification.

[Utah Code § 53G-11-402\(3\) \(2020\)](#)