

# **CENTER FOR CREATIVITY, INNOVATION, AND DISCOVERY**

## **Background Check and Reporting Policy**

### **Purpose**

The Board of Directors of the Center for Creativity, Innovation, and Discovery has adopted this background check policy for licensed and for non-licensed school employees to ensure regular background clearance and reporting of specific offenses by all the school's employees, in accordance with Title 53E, Chapter 6, Educator Licensing and Professional Practices Act and Utah State Board of Education Rules, Utah Admin. Code R277-217 and Utah Admin. Code R277-316.

### **Utah Educator Standards and LEA Reporting**

The Board of Directors of the Center for Creativity, Innovation, and Discovery acknowledges the following:

- The USBE requires all Utah licensed educators to comply with federal, state, and local laws, maintain a safe learning environment, and exhibit appropriate professional educator conduct in accordance with Utah Admin. Code R277-217 , Utah Educator Standards and LEA Reporting.
- Utah Admin. Code R277-217, has established statewide ethical standards for educators, reporting requirements for educators and LEAs, and statewide ethical standards for educators.
- The rule also recognizes that educators are professionals and share common professional standards, expectations, and role model responsibilities.
- Violations of Utah Educator Standards and LEA Reporting may result in license discipline by the USBE and termination of employment at the school.

### **Educator Reporting of Arrests, Citations, Charges, and Convictions.**

In accordance with Utah Admin. Code R277-217, a licensed educator who is arrested, cited, or charged with the following alleged offenses shall report the arrest, citation, or charge within 48 hours, or as soon as possible, to the licensed educator's Executive Director or to the school's designee:

- Any matters involving an alleged sex offense;
- Any matters involving an alleged drug-related offense;
- Any matters involving an alleged alcohol-related offense;
- Any matters involving an alleged offense against the person under Title 76, Offenses Against the Person;
- Any matters involving an alleged felony offense under Title 76, Chapter 6, Offenses Against Property;

- Any matters involving an alleged crime of domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act; and,
- Any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed above.
- A licensed educator shall report any conviction or plea in abeyance for a felony or misdemeanor offense to the educator's Executive Director or to the school's designee, within 48 hours, or as soon as possible thereafter.
- The Executive Director or the school's designee shall report conviction, arrest, or offense information received from an educator to the Superintendent or USE's Executive Secretary within 48 hours of receipt of information from an educator.
- A licensed educator shall report for work following an arrest and provide notice to the licensed educator's Executive Director unless directed not to report for work by the Executive Director, consistent with the school's policy.

### **Non-Licensed Public Education Employee, Volunteer, and Charter School Board Member Background Checks**

- In accordance with Utah Admin. Code R277-316, non-licensed school employees, volunteers, and members of the school's Board of Directors must submit to a background check and ongoing monitoring through the system described in Utah Code §53-G-11-404, the WIN Database rap back system, or any successor system and the rap back system maintained by the Federal Bureau of Investigation.
- Submission to a background check and ongoing monitoring as described above is a condition of employment or appointment at the school.
- Non-licensed school employees, volunteers, and members of the school's Board of Directors must notify the school when a new entry is made relative to themselves regarding an alleged offense or a conviction, including a plea in abeyance.

### **Non-licensed Public Education Employee, Volunteer, or Charter School Board Member Arrest Reporting**

In accordance with Utah Admin. Code R277-316, non-licensed employees, volunteers, and members of the school's Board of Directors must report the following to the Executive Director or the school's designee:

- Convictions, including pleas in abeyance and diversion agreements;
- Any matters involving arrests for alleged sex offenses;
- Any matters involving arrests for alleged drug-related offenses;
- Any matters involving arrests for alleged alcohol-related offenses; and,
- Any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

- A non-licensed employee, volunteer, or member of the school's Board of Directors will report any conviction or plea in abeyance for a felony or misdemeanor offense to the educator's Executive Director or to the school's designee, within 48 hours, or as soon as possible thereafter.

### **Conditions for Immediate Suspension from Responsibilities**

- Any licensed employee, non-licensed employee, volunteer, or member of the school's Board of Directors 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.
- Any licensed employee, non-licensed employee, volunteer, or member of the school's Board of Directors will be immediately suspended from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation.

### **Due Process for School Employees, Volunteers, and Members of the Board**

- The school will provide adequate due process for the accused employee consistent with Utah Code §53G-11-405;
- The school will provide a process to review arrest information and make employment or appointment decisions that protect both the safety of students and the confidentiality and due process rights of employees and members of the school's Board of Directors; and,
- The school will provide procedures for maintaining records of arrests and convictions of non-licensed employees and members of the school's Board of Directors.
- The school's records of arrests and convictions of non-licensed employees and members of the school's Board of Directors will follow requirements in Utah Admin. Code R277-316 including: ensuring that the records include final administrative determinations and actions following investigation, are maintained only as necessary to protect the safety of students, and are bound by strict requirements for the protection of confidential employment information.

### **Privacy Risk Mitigation Responsibilities**

The school will implement the following strategies to mitigate privacy risks and ensure that it is conducting checks in an ethical and legally compliance manner:

#### Transparency and Consent:

- The school informs applicants about the nature, purpose, and scope of the background check.
- The school provides forms to ensure explicit, written consent before an applicant can proceed.

- The forms clearly explain what the applicant agrees to and gives an applicant control over their information.

#### Limited Access to Information:

- The school uses a unique agency code assigned by the Bureau of Criminal Investigation to ensure that it only receives background check information for individuals assigned or affiliated with the school.
- The school assigns only one user for its agency account with the Bureau of Criminal Investigation.
- The school assigns a limited, required number of users to manage its account with the system provided by the Utah State Board of Education (USBE) to manage information about educators' licenses, credentials, and background checks.

#### Ethical Use of Information

- The school uses the information obtained from background checks only for its intended purpose.
- The school avoids discriminatory practices as per EEOC guidelines.
- The school ensures the information used is accurate and allow individuals to clarify or dispute findings

#### Data Minimization:

- The school accesses data through secure tools provided by third-party, state agencies for the collection and retention of data related to the background check of an employee or volunteer.
- The school removes its access to information about an employee or volunteer once that employee or volunteer is no longer associated with the school.

#### Formal Policies and Procedures:

- The school has implemented a data security and privacy policy that governs how sensitive data is managed at the school.
- The school shall assist authorized entities to identify the appropriate privacy risk mitigation strategy that is to be used to ensure that the school only receives notifications for individuals with whom the school maintains an authorizing relationship.
- The school will collaborate with the USBE to provide training to its administrators, employees, and volunteers on notification procedures and privacy risk mitigation strategies.

#### **Administrative Discretion**

The Administration has the sole and absolute discretion to determine whether the outcome of a criminal background check will result in administrative action to include the decision to terminate employment or the decision not to hire. A criminal conviction does not necessarily preclude employment at the school. The background check review for each individual will take into consideration the individual's specific duties and responsibilities at the school.

#### General Administrative Discretion

- The Administration may consider both criminal and/or administrative findings in making a decision about hiring, disciplinary action, or termination related to the background check or reporting of an employee or potential employee.
- The Administration may consider each circumstance on a case-by-case basis and use the following factors to determine an applicant or current employee's suitability to work or to continue to work at the school:
  - Type of conviction;
  - Relevance of conviction to the individual's position;
  - A history of multiple convictions that suggests a pattern of criminal behavior or bad judgment;
  - Amount of time that has passed since a conviction and/or the completion of a sentence;
  - Frequency and severity of the crime(s);
  - Age of the individual at the time the crime was committed;
  - Evidence of rehabilitation.

#### Considerations Required by Law

In accordance with Utah Code §53G-11-405, Due process for individuals--Review of Criminal History Information, the Administration will consider the following when making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks:

- Any convictions, including pleas in abeyance;
- Any matters involving a felony; and,
- Any matters involving an alleged:
  - Sexual offense;
  - Class A misdemeanor drug offense;
  - Any offense against the person under Title 76, Chapter 5, Offenses Against the Individual;
  - A class A misdemeanor property offence that is alleged to have occurred within the previous three years; and

- 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.

### **Reporting Misconduct to UPPAC**

- The school shall notify UPPAC if an educator is determined pursuant to a judicial or administrative proceeding, or internal school investigation, to have violated the educator standards described in Utah Admin. Code R277-217.
- The school shall notify UPPAC using the form provided by the UPPAC Executive Secretary.
- Upon submitting a notification, the school may exercise its right to make a recommendation to the Executive Secretary concerning whether an investigation by UPPAC would be appropriate under the circumstances considering any employment action taken by the school.
- The school acknowledges that, if no related criminal charge is filed, the school is not responsible to notify UPPAC of an allegation if the school's internal investigation establishes that the allegation is unsupported.

### **Reporting of Misconduct to UPPAC**

- The school will notify the Utah Professional Practices Advisory Commission (UPPAC) if an educator is determined pursuant to a judicial or administrative proceeding, or internal LEA investigation, to have violated the educator standards described in Utah Admin. Code R277-217.
- The Administration shall notify UPPAC and the educator of any allegation from a parent that an educator's conduct violated Sections R277-217-2 and R277-217-3 within 30 days of receiving the allegation.
- UPPAC shall record an allegation received, but shall defer further investigation pending the school's determination of possible school discipline.
- For each allegation referred to UPPAC, the school shall notify UPPAC of:
  - The findings of the LEA's internal investigation or administrative proceedings;
  - Criminal charges filed by a prosecuting agency;
  - The school's internal disciplinary action or decision not to take action and the evidence supporting the decision; and
  - Any evidence that may be relevant if UPPAC chooses to investigate the matter.
- Upon submitting a notification, the school may make a recommendation to UPPAC concerning whether an investigation by UPPAC would be appropriate under the circumstances, taking into account any employment action taken by the school, even though the school's recommendation is not binding on UPPAC, which shall make its own independent determination.

### **Reference Check Procedures**

Before hiring an applicant or giving an unsupervised volunteer assignment to a potential volunteer, the school shall:

- Require an applicant or potential volunteer to sign a release authorizing the previous employer of a qualifying position to disclose to the school any information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the applicant or potential volunteer;
- Request that the applicant or volunteer's most recent employer of a qualifying position disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the applicant or potential volunteer;
- Require that the applicant or potential volunteer's most recent employer of a qualifying position disclose information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the potential volunteer before the applicant is hired or the volunteer appointed; and,
- Document the efforts taken to make a request and receive information as described above.
- The school will not hire an employee or give a volunteer assignment that gives unsupervised access to students until and unless an applicant or potential volunteer signs the release described above and until and unless the school is satisfied by the responses acquired from previous employees of an applicant or potential volunteer.
- The school shall attempt with all due diligence to acquire the information as described above before hiring an applicant or giving an unsupervised volunteer assignment to a potential volunteer.

### **Actions in Accordance with Applicable Laws**

The school follows all applicable laws, and if any of the requirements or guidelines within this policy should become inconsistent with current laws or rules, including the Utah Administrative Code or USBE rule, the school will disregard that portion of the policy and will comply with current laws.

**Reviewed:** August 28, 2025