

## 04-03. Background Check Policy

<b>Internal Policies and Procedures of the Utah State Board of Education</b>	
<b>Policy</b>	04-03
<b>Subject</b>	Background Checks
<b>Date</b>	April 1, 2022
<b>Policy Owner</b>	Director of Human Resources
<b>Policy Officer</b>	Deputy Superintendent of Operations
<b>References</b>	Utah Code 53-10-1-108, 53-10-108(16) DHRM Administrative Rule R477-8-20

### I. Purpose and Scope

- The Utah State Board of Education (USBE) is committed to the goal of only hiring employees who exhibit the highest level of professional and ethical conduct.
- This policy applies to all USBE employees, contractors, interns, and volunteers (collectively referred to as “USBE employees” throughout this policy).
- This policy relies on the following definitions:
  - *Board employee*: Anyone employed by the Utah State Board of Education. Board employee does not include a member of the Utah State Board of Education.
  - *Criminal Background Check*: A Utah Criminal Justice Information System (UCJIS) background check administered by DHR.
  - *Misdemeanor*: Offenses lower than felonies and generally punishable by a fine, penalty, forfeiture, or imprisonment other than in a penitentiary.
  - *Felony*: A crime of a graver and more serious nature than those designated as misdemeanors, including but not limited to violent crimes.
  - *Reasonable Cause*: Where the known facts and circumstances are sufficient to cause a person of reasonable prudence to believe that the employee poses an unreasonable risk to persons or property.

### II. Policy

- A USBE employees shall undergo a criminal background check upon hire. This applies to all new hires, including those who worked in a state agency or other government job.
- All offers of employment are conditional upon the employee passing the background check.

### III. Procedures

- USBE will not perform a background check on an individual without the individual's written consent. Failure to consent to a background check shall result in a job offer being revoked or disciplinary action up to and including termination of employment. DHRM will receive the results of the background check.
  - No further action is needed if there is no adverse information;
  - If there is adverse information, the Division of Human Resource Management shall share the information with a member of the Superintendentcy. The employee's supervisor and/or hiring manager will not be notified at this stage.
- In coordination with the Superintendentcy, DHRM may request additional details from a prospective employee regarding adverse information, and may also meet with the prospective employee, to allow the prospective employee to provide additional information that may provide context and explanation to the report.
- The decision to not extend an offer of employment, rescind an offer previously made, or terminate an employee because of adverse information on a background check will be on the judgment of the Superintendent and a Deputy Superintendent, in consultation with DHRM. These decisions will be made on a case-by-case basis, and the member Superintendentcy may consider factors such as the severity and extent of the criminal activity, including the time that has passed since the offense, the relationship between and type of offense and the duties of the job positions, and conduct or completion of a punishment.
  - All felony and misdemeanor convictions will be reviewed on a case-by-case basis to determine if employment would create liability or compromise the safety of employees or students.
  - Additional factors which shall be considered for employment include:
    - whether the crime is related to the current or prospective employee's duties or might reasonably be expected to prevent an employee from performing the duties of their position;
    - the nature of the crime;
    - the number of convictions;
    - the prospective employee's conduct and demonstration of trust since the conviction;
    - false or misleading statements, verbal or written, made by the current or prospective employee regarding their criminal record; and
    - any evidence of violence will preclude an applicant from being hired at USBE.
- USBE shall not be liable if there is an error in the conviction record received from the background check. It is the responsibility of the candidate to have his or her record corrected.

- A person convicted of a felony or misdemeanor which falls outside any of the categories listed above may be considered for employment if the candidate has the record expunged. The candidate must submit evidence of expungement to the Human Resources Office.
- For prospective employees, if the adverse information is determined by the Superintendent to warrant action, the hiring official may rescind the offer to the prospective employee.
- For current employees, administrative action may be taken, up to and including termination of employment, if the background check produces adverse information that should have been divulged at the original time of hire and was not.
- Background check information will be destroyed once relevant decisions have been made.

#### **IV. History**

This policy supersedes the previous Background Check policy that was established August 1, 2018.