

# Utah Tech University Policy

## 159: Sex Offender & Violent Felony Admission



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### I. Purpose

- 1.1 Utah Tech University (hereinafter referred to as “University”) is committed to ensuring the safety and security of all individuals within its community and on its premises. The University has a particular concern for safety on University premises and strengthening the public confidence in the safety of the University premises.

### II. Scope

- 2.1 Policy 159 provides procedures and guidelines that apply broadly to sex offenders, felons, and students convicted of serious and or violent crimes. For the purpose of Policy 159 only, the term “Serious Crimes” will be used hereafter. Policy 159 applies to all applicants and current University students.

### III. Definitions

- 3.1 ***Criminal Admissions Assessment Team (“CAAT”)***: An administrative unit of the University charged with reviewing the admission applications of applicants that have been convicted of Serious Crimes.
- 3.2 ***Serious Crime***: Any crime that is of a violent or serious nature and poses a potential threat to the safety of the University community, specifically including, but not limited to homicide, drug trafficking, crimes against minors, sex offenses, robbery, weapon offenses, kidnapping, manslaughter, arson, aggravated assault, threats of use and or use of weapons of mass destruction, and causing a catastrophe.
- 3.3 ***Final Disposition***: Charges dropped, not guilty verdict, conviction, guilty

plea, or no contest plea.

#### **IV. Policy**

- 4.1 Serious Crime Offenders: Applicants convicted of a Serious Crime are not eligible for admission or continued enrollment at the University unless the University's Criminal Admissions Assessment Team ("CAAT") reviews and approves the applicant's admission.
- 4.2 The University's Criminal Admissions Assessment Team ("CAAT") team is hereby charged to review and make decisions regarding the following:
  - 4.2.1 Whether applicants for student admission who provide affirmative responses to the application's criminal history question shall be further considered in the admissions process.
  - 4.2.2 Whether students, who after enrollment (or confirmed intent to enroll), are charged with a Serious Crime and a prosecuting jurisdiction has made Final Disposition of such charges, shall be eligible to continue to enroll or admitted status shall be revoked.
- 4.3 This document establishes the CAAT's operating procedures and processes in response to its delegation of authority in Policy 159.

#### **V. References**

- 5.1 Utah Code 58-(37-38) Controlled Substances
- 5.2 Utah Code 76-5- (201-209) Criminal Homicide
- 5.3 Utah Code 76-5- (301-310) Kidnapping, Trafficking, and Smuggling
- 5.4 Utah Code 76-5- (401-414) Sexual Offenses
- 5.5 Utah Code 76-5- (103) Aggravated Assault
- 5.6 Utah Code 76-5b-(101-301) Sexual Exploitation Act
- 5.7 Utah Code 76-6- (102-103) Arson
- 5.8 Utah Code 76-6- (105) Causing a Catastrophe
- 5.9 Utah Code 76-6- (203) Aggravated Burglary
- 5.10 Utah Code 76-6- (301-302) Robbery
- 5.11 Utah Code 76-10- (401-405) Weapons of Mass Destruction

## VI. Procedures

- 6.1 **CAAT Composition:** The CAAT is a standing committee co-chaired by the Office of the Vice President of Student Affairs' designee and the Office of General Counsel's designee. CAAT is comprised of University representatives from the Office of Student Affairs, Dean of Student Affairs, University Police, University Housing, and representatives from the Office of General Counsel.
- 6.2 **Application Question:** The CAAT is responsible for drafting and updating, if needed, a criminal history question to be included on the application for undergraduate, graduate, and all non-degree seeking admissions ("Question").
- 6.3 **Affirmative Responses:** If an applicant responds "yes" to the Question(s), the following steps will be taken:
  - 6.3.1 **Supplemental Form:** The respective admission office in which applicant is applying for admission will send the applicant or student notification that he or she is required to provide an explanation regarding the incident in question (in addition to any other information the applicant would like considered) and consent to a background check. The form titled, Criminal History Supplement Form will be used for this purpose ("Supplemental Form"). Applicants can download the Supplemental Form from the admission application or it will be sent to the applicant from the respective office they are applying to for admission.
  - 6.3.2 **Investigation:**
    - 6.3.2.1 *Preliminary Review:* A representative from the respective admissions unit (Office of Undergraduate Admissions, and Office Graduate Admissions) will initially review the applicant's completed Supplement Form. If the respective unit determines that the crime(s)/offense(s) is of a nature that does not pose a potential risk to the University community, the unit may clear the application to proceed in the admission process ("Eligible for Admission"). Convictions of a Serious Crime will not be cleared and must proceed to the next step in the investigation.
    - 6.3.2.2 *Background Check:* If the admissions unit representative

believes that the nature of the crime(s) or offense(s) warrant a further review, then the unit representative will contact the University Police Department (UPD) and provide the Background Investigator a copy of the Supplemental Form. The Background Investigator, or designee, will conduct a background check into the applicant's relevant history. The background check will include, in most instances, BCI database Record review.

6.3.2.3 If during the background check, the Background Investigator finds information about crimes against persons including sex offenses, multiple offenses, or significant property crimes, the Background Investigator will make a good faith effort to obtain a copy of the police report, and to communicate with investigating officers, probation officers, and prosecutors related to those investigations, if the Background Investigator deems it is necessary to have such additional information. In addition, an interview with the applicant may be conducted, and in some instances, in the sole discretion of the Background Investigator, witnesses and/or victims may be contacted. The background investigation file shall be archived at the University's Police Department, along with other background investigations, and kept for a minimum of three years.

### 6.3.3 CAAT Review and Determination:

6.3.3.1 The Background Investigator will provide a summary of the background check to the CAAT. The CAAT will consider the background check summary, the nature, severity and timing of the underlying conduct, and any information that the applicant provided. If CAAT finds by a preponderance of the evidence that the applicant's conduct poses an unreasonable risk to the safety or security of others in the University community, the applicant will not be Eligible for Admission. If the CAAT decides the applicant is Eligible for Admission, the CAAT may condition continued eligibility upon the applicant's compliance with criteria specified by the CAAT, including, but not limited to drug and alcohol evaluation or clinical support or not being eligible for on-campus housing.

6.3.3.1.1 *Not Eligible:* If the CAAT determines that the applicant is not Eligible for Admission, the respective admissions

unit (Office of Admissions, Graduate School) will send written notification to the applicant.

6.3.3.1.2 *Eligible*: If the CAAT determines that the applicant is Eligible for Admission the respective unit office will update the applicant's admission application to show the application is allowed to continue through the admission process and the respective unit office will send written notification to the applicant.

6.3.3.1.3 *Eligible with Specific Conditions*: If the CAAT determines that the applicant is Eligible for Admission with conditions, the respective unit office will send written notification of the committee's conditions to the applicant.

#### 6.3.4 Registered Sex Offenders:

6.3.4.1 If the CAAT determines a registered sex offender is Eligible for Admission, and the applicant is ultimately admitted. Such decision will be communicated to the admittee in the letter notifying the admittee of his/her admission.

6.3.5 **Registered Sex Offenders /Campus Housing**: Admitted Sex Offenders are not eligible for on-campus housing. The CAAT shall review all Sex Offender campus housing appeals. If an admitted sex offender is allowed to reside in campus housing, he/she must comply with any and all registration requirements per state law, in addition to registering with UPD.

#### 6.3.6 Appeals:

6.3.6.1 *Appeal to CAAT*: The affected applicant may appeal a CAAT decision when new information is available that was not included or available in the initial review of the applicant's file and can be provided as part of the appeal. To request any appeal, the applicant must submit a written letter to the CAAT, stating the grounds for the appeal, and a request to be re-considered. This letter must be addressed to the Criminal Admissions Assessment Team, c/o Background Investigator, Utah Tech University, 225 South 700 East, Saint George, Utah 84770. The applicant will be notified in writing by the CAAT of the results of the appeal.

6.3.6.2 *Appeal to Vice President of Student Affairs:* Should the applicant's appeal be denied, the applicant may request in writing that the appeal be submitted for a review to the Vice President of Student Affairs. In this event, the CAAT will inform the Vice President of Student Affairs and provide the Vice President of Student Affairs with the applicant's file, including information relevant to CAAT's decision and the applicant's appeal. Either the Vice President of Student Affairs, or the CAAT will notify the applicant in writing of the result of the Vice President of Student Affairs' decision. The Vice President of Student President Affairs' decision shall be final.

**6.3.7 Already Enrolled Students:**

6.3.7.1 Pursuant to Section I(B) of Policy 159, the procedures detailed in section II, shall also apply to already admitted and enrolled (or confirmed intent to enroll) students who are subsequently charged with a Serious Crime (1) and the prosecuting jurisdiction has made Final Disposition (2) of such charges. In such cases, CAAT shall decide whether the student is eligible to continue to enroll, whether the student's prior admission will be revoked, or whether the student will be eligible to enroll based upon condition continued eligibility. The CAAT's decision will be communicated in writing to the student or may be subsequently amended, whichever is applicable.

**6.3.8 Conditions applicable to all Applicants Eligible for Admission:** The following conditions apply to all applicants who the CAAT determines are Eligible for Admission:

6.3.8.1 The applicant must not be charged with any further crimes pursued by a prosecuting jurisdiction.

6.3.8.2 The applicant must complete all court ordered requirements.

6.3.8.3 The applicant must meet with the Dean of Student Affairs, no later than one week prior to the academic semester, to discuss and comply with any additional conditions.

6.3.8.4 If an applicant fails to comply with these or any other admission conditions prior to enrollment, the CAAT may revoke its prior determination and make the applicant not Eligible for Admission. If the applicant fails to comply with admission conditions after enrollment, it is a potential

violation of the Student Code of Conduct and the case will be referred to the Office of Student Conduct.

6.3.8.5 The University reserves the right to impose additional conditions on a case-by-case basis.

**VII. Addenda – N/A**

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Policy Owner: General Counsel  
Policy Steward: General Counsel

History:  
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