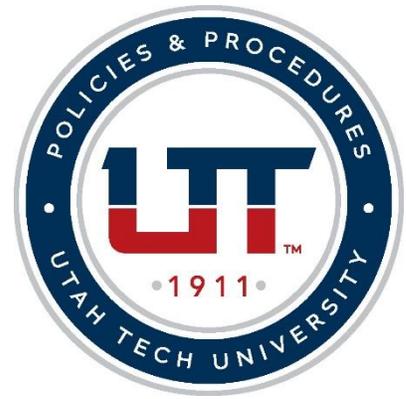


Utah Tech University Policy

329: Criminal Background Checks



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I. Purpose

- 1.1 To provide guidelines for criminal and other background checks of certain perspective and existing Utah Tech University (“the University”) employees as required and regulated by applicable Federal regulations, Utah law, policies of the Utah Board of Higher Education, and as understood best practices for higher education employers.
- 1.2 To ensure conjunction with the University’s existing policies concerning hiring, appointments, disciplinary actions, and termination of existing employees. It confirms the University’s core principles of an academic institution and an Equal Opportunity employer, including but not limited to the principles of academic freedom, freedom of expression, non-discrimination and diversity, safety of persons and property, fair and equitable treatment of employees, and maintenance of a physical environment and intellectual climate conducive to successful fulfillment of the University mission.

II. Scope

- 2.1 This policy applies to all full-time University employees, as well as all part- time employees in security sensitive positions and/or have significant contact with minors and/or in accordance with grant or program regulations. This policy also applies to official University volunteers, as defined in Policy 301.

III. Definitions

- 3.1 ***Applicant***: a person offered employment, transfer, or promotion contingent on acceptable results of a criminal background check and

other reviews required for the position by the University, including but not limited to financial/credit checks and degree transcripts or license documentation.

- 3.2 **Background Check:** a commercial or governmental process of searching records to determine no less than whether an individual has been convicted of criminal conduct anywhere in the U.S. within no less than the last seven (7) years. The University may choose to specify a longer time period, search in one or more foreign countries, and/or seek additional information such as arrests, financial/credit information, or other evidence including character issues as part of a background check.
- 3.3 **Diminished Capacity Adult:** a person age 21 or older who lacks decision-making capacity which requires, to greater or lesser degree: 1) possession of a set of values and goals; 2) the ability to communicate and to understand information; and 3) the ability to reason and to deliberate about one's choices.
- 3.4 **Employee:** a member of the faculty or staff of Utah Tech University who receives compensation for work or services from funds controlled by the University, regardless of the source of the funds, the duties of the position, the amount of compensation paid, or the percent of time worked.
- 3.5 **Minor:** for the purposes of this policy, defined as a person younger than 21 years of age.
- 3.6 **Reasonable Cause:** when the known facts and circumstances are sufficient for a reasonable person to believe that an existing employee in his or her capacity as a University employee poses, or an applicant for such a position would pose a significant risk of physical, emotional, financial, or other loss or harm to persons, property, or the University and/or to believe that a background check will reveal a report of a crime of the type that poses such a significant risk of harm.
- 3.7 **Security Sensitive Positions:** positions with duties that require, provide for, or encompass the potential to incur human, financial, property, or other loss or harm to the University and/or its constituents. A security sensitive position includes one or more of the following elements:
 - 3.7.1 Access to children, including child care, University preschool, or diminished capacity adults; relationships with students where exceptional trust and responsibility are involved, such as coaches, counselors, health care providers, and residence hall personnel;
 - 3.7.2 Responsibility for providing direct medical care, treatment, or

counseling and/or access to pharmaceuticals, toxins, or other hazardous or controlled substances;

Direct access to laboratory materials or other property that have the potential of being diverted from their proper use either for financial gain or for harmful, dangerous, or illegal purposes;

- 3.7.3 Decision-making authority for committing University funds or financial resources through contracts and commitments and/or direct access to or responsibility for handling cash, checks, credit/debit cards or cash equivalents, University property, disbursements, or receipts;
 - 3.7.4 Access to building and/or residence hall master keys or control systems;
 - 3.7.5 Access to confidential information or sensitive personal information such as employment, health, donor, financial and other records, including data that could facilitate identity theft;
 - 3.7.6 Access to and responsibility for the maintenance, upgrading, and repair of the University's computer networks and/or information technology systems;
 - 3.7.7 Responsibility for police, security, guard or similar services, or for other significant health and safety issues.
- 3.8 ***Significant Contact with Minors:*** employment where there is a reasonable expectation that in the course of the normal, routine responsibilities of the position, the employee and a minor will interact on a one-on-one basis. For example, instructors with office hour consultations, mentors, tutors, counselors, testing center employees, coaches, camp employees, and advisors could all reasonably expect to interact one-on-one with students as a normal, routine part of their work and hence would have "significant contact" with one or more minor persons during the course of employment.
- 3.9 ***Official University Volunteers:*** unpaid workers in academic or non-academic University-sponsored programs, including instructors in credit or non-credit courses, officially recognized through volunteer or non-employee paperwork completed with Human Resources.

IV. Policy

- 4.1 Utah Tech University requires background checks, as a condition of employment, for any new full-time hire, part-time hire, or official

University volunteer that involves significant contact with minors or is considered to be security sensitive by the University. Background checks can be conducted by a commercial entity or government agency, at the University's discretion, and facilitated by Human Resources at the time of hiring.

4.1.1. The President or their designee may specify types of positions governed by these requirements and/or exempt certain part-time or temporary positions from the requirement insofar as such exemption is not inconsistent with Utah law or the policies of the Utah Board of Higher Education. An applicant exempted from a background check may be required to self-disclose any criminal background.

4.1.2. New hires for, or existing employees in, specific positions may be required to consent to a fingerprint background check by the Utah Bureau of Criminal Identification, the Federal Bureau of Investigation, or other governmental or commercial entity.

4.1.2.1 Each faculty member, including new hires and existing full-time, part-time, and adjunct faculty, who is assigned to teach concurrent enrollment students, will be required to undergo a fingerprint background check with the Utah Bureau of Criminal Identification. The fingerprint background check must have been conducted within the previous five years of the beginning of the semester in which the faculty member is assigned to teach any concurrent enrollment students.

4.1.2.2 Current employees of the Washington County School District will be considered to have fulfilled the background check requirements associated with instruction of concurrent enrollment students by meeting the District's background check requirement.

4.2 The University may designate security sensitive positions, including those with access to sensitive personal information or responsibility for University or other funds as requiring a financial/credit check in addition to the criminal background check.

4.3 The University does not require employees, nor the hiring department, to pay the cost of any criminal background check as a condition of employment unless the department is requesting a background check be completed that does not meet the criteria as outlined in section 4.1. In this case, the hiring department will cover the cost of the background check.

4.4 All background check information is to be treated as part of the

employee's personnel file with access to the information limited to those individuals needing access to make employment decisions.

4.5 If a position requires academic attainment, or professional or occupational licensure, the employee is responsible for submitting official transcripts, licensing documentation, or other professional credentials in a timely manner prior to the start of employment, before any associated rank advancement or promotion becomes official, or as required by the relevant Vice President or by Human Resources.

4.5.2 Employees required to hold a professional or occupational license must provide written notice to their immediate supervisor within five (5) business days upon learning of any investigation, disciplinary action, suspension, or termination initiated by the relevant licensing board or equivalent regulatory body.

4.5.2.1 The supervisor must forward such written notice to the Executive Director of Human Resources.

4.5.2.2 Investigation or disciplinary action of a professional or occupational license may constitute an offense sufficient to warrant disciplinary action pursuant to Policy 372.

4.5.2.3 Suspension or termination of a professional or occupational license may result in dismissal from employment.

V. References

5.1 University Policy 301: Personnel Definitions

5.2 University Policy 372: Corrective and Disciplinary Action

5.3 University Policy 373: Termination and Reduction in Workforce

5.4 Utah Code 53A-3-410 Criminal Background Checks on School Personnel

5.5 Utah Code 53B-1-110 Higher Education Criminal Background Checks

5.6 Utah Board of Higher Education Policy R165, Concurrent Enrollment

5.7 Utah Board of Higher Education Policy R847, Criminal Background Checks

5.8 Fair Credit Reporting Act 15 U.S.C. 1681 et seq.

VI. Procedures

6.1 The background check process is originated by Human Resources at the

time of the employment offer. Associated paperwork (including notice of rights under the Fair Credit Reporting Act) is sent to the new hire for completion prior to the hire date.

- 6.1.1 Employees who transition from one full-time position to another are not required to recomplete a background check unless reasonable cause merits such action or no background check was completed at the time of the employee's original hire. Employees who leave University employment for a period of one year or more are required to complete a new background check as a condition of re-employment.
- 6.2 Employees are required to complete the associated background check paperwork in a timely manner; all employment offers are contingent upon successful passing of a background check, when required.
- 6.3 Background check results are reviewed by Human Resources; as needed, they will consult with the hiring manager on the results.
- 6.4 If an employment offer (or volunteer application) is rescinded due to background check results, employment/volunteerism will be terminated in accordance with Policy 373.
- 6.5 Background check results are archived with the employee's personnel file.

VII. Addenda – N/A

Policy Owner: Executive Director of Human Resources
Policy Steward: Human Resources, General Counsel

History:

Approved
3/20/15 Revised
11/30/18
Revised 1/31/20
Editorial
07/01/2022