

NUAMES Policy and Procedures

277-516: Education Employee Required Reports of Arrests and Required Background

Revised: September 25, 2013 *

Approved: October 23, 2013

1. PURPOSE AND PHILOSOPHY

NUAMES enacts this policy in an effort to protect the safety, health, and security of NUAMES students, employees, and property.

2. CRIMINAL BACKGROUND CHECKS

In order to protect the health and safety of all students and protect the property of NUAMES, NUAMES shall require current and potential employees to submit to a criminal background check as a condition for employment or appointment. Volunteers who will be given significant unsupervised access to a student in connection with the volunteer's assignment shall submit to a criminal background check as a condition of participation as a volunteer.

2.1 Individuals Subject to Background Checks

- 2.1.1 NUAMES shall require a criminal background check on each potential employee if a check has not been made by the Utah State Office of Education within the previous twelve (12) months.
- 2.1.2 NUAMES may require a criminal background check on each substitute, contract employee, or volunteer if a check has not been made by the Utah State Office of Education within the previous twelve (12) months.
- 2.1.3 A background check shall be required for the renewal of any Utah educator license in accordance with Utah Administrative Code R277-500-6.
- 2.1.4 Employees shall submit to background checks a minimum of once every six (6) years.
- 2.1.5 Where reasonable cause exists, NUAMES may require an existing employee or volunteer to submit to a criminal background check.

2.2 A background check shall include driving record reports on applicants and employees when their positions require driving as an essential job function. NUAMES shall update driving records:

- 2.2.1 at least one (1) time per year for bus drivers; and at least one (1) time per year for any other employee for whom driving is an essential job function.

2.3 Conducting the Background Check

- 2.3.1 The applicant, volunteer, or employee shall receive written notice that the background

check has been requested.

- 2.3.2 The applicants, volunteers, or employees shall be required to sign the release form and submit to the background check to enable the District to perform the background check.
- [a] An applicant who declines to submit to a background check shall be ineligible for further consideration for employment with the District.
- [b] A current employee who declines to submit to a background check will no longer be considered qualified to be employed with the District.
- [c] A volunteer who will have significant unsupervised access to students shall submit to a background check as a condition of participation as a volunteer.
- 2.3.3 The background check will include, but not be limited to, a fingerprint check conducted by the District Security Division and the Utah Bureau of Criminal Identification. Fingerprints shall be included in a database described in Utah Code Ann. §53A-6-401(3)(c).

2.4 Payment for Background Check

- 2.4.1 Applicants for employment, including substitutes, shall be required to pay the designated costs of background checks subject to the provisions of Utah Code Ann. § 53A-3-410(7)(a).
- 2.4.2 A volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment may be required to pay the designated costs of background checks.
- 2.4.3 An employee shall be required to pay the designated costs of periodic background checks as a condition of continued employment or re-licensure.
- 2.4.4 The District shall pay the cost of background checks for employees or volunteers when initiated for reasonable cause rather than as a condition of continued employment or re-licensure.

3. REVIEW OF INFORMATION AND DETERMINATION OF SUITABILITY TO WORK AT NUAMES

- 3.1 Upon receipt of background check results, NUAMES shall determine what, if any, action is warranted.
- 3.2 A criminal conviction does not necessarily preclude employment with NUAMES. NUAMES has the sole and absolute discretion to determine whether the outcome of a criminal background check or driving record check is satisfactory. The safety and security of NUAMES students will be the foremost consideration. NUAMES personnel consider each circumstance on a case-by-case basis to determine an applicant or current employee's suitability to work at NUAMES.

Factors considered include, but are not limited to, the following:

- 3.2.1 type of conviction;
 - 3.2.2 relevance of any conviction to the individual's position;
 - 3.2.3 a history of multiple convictions that suggest a pattern of criminal behavior or bad judgment;
 - 3.2.4 amount of time that has passed since a conviction and/or the completion of a sentence;
 - 3.2.5 age of the individual at the time the crime was committed;
 - 3.2.6 evidence of rehabilitation.
- 3.3 If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person shall receive written notice of the reasons for denial or dismissal and shall have an opportunity to respond to the reasons.
- 3.4 In no case will the subject of the background check be given a copy of the criminal history report or will copies be provided to entities outside of NUAMES.

4. CONFIDENTIALITY

Information obtained through background checks is confidential and may only be disclosed as provided in Utah Code Ann. §53A-3-410.

5. REPORTS OF ARREST AND COURT ACTION

5.1 Personal Reporting of Arrest

5.1.1 A NUAMES employee who is arrested for the following alleged offenses shall report the arrest as soon as possible or within 48 hours to the employee's principal or supervisor:

[a] any matters involving arrests for alleged sex offenses;

[b] any matters involving arrests for alleged drug-related offenses;

[c] any matters involving arrests for alleged alcohol-related offenses; and

[d] any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

- 5.1.2 A NUAMES employee shall report, to their principal or supervisor, convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of conviction, plea in abeyance or diversion agreement.
- 5.1.3 The principal shall report offense information received from the employee as soon as reasonably possible to the NUAMES Business Administrator.
- 5.1.4 The NUAMES Business Administrator shall electronically report arrest or offense information received from licensed educators to the USOE within 48 hours through the USOE website.
- 5.1.5 The employee shall report for work following the arrest and notice to the principal unless directed not to report for work by the principal.

5.2 Review, Investigation and Suspension

- 5.2.1 The principal shall review arrest information and:
 - [a] assess the employment status considering the employee's assignment and NUAMES' policy regarding ethical conduct;
 - [b] if the employee is a licensed educator, assess the employment status considering the provisions of Utah Code Ann §53A-6-501 and Utah Administrative Code R277-515; and
 - [c] make employment decisions that protect both the safety of students and the confidentiality and due process rights of the employee.
- 5.2.2 An employee shall be immediately suspended from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation.
- 5.2.3 An employee shall be immediately suspended from transporting students or vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation.

6. DUE PROCESS

An employee dismissed from employment shall receive written notice of the reasons for denial or dismissal and have opportunity to respond to the reasons under procedures set forth in the applicable employee agreement.

7. RECORDS

Records of arrests and convictions of employees, including the final administrative determination and actions following the investigation shall:

- 7.1 be maintained and protected in accordance with NUAMES policy; and
- 7.2 be retained for five (5) years provided there are no further arrests or until administrative need ends and then destroyed.

DEFINITIONS

"Crimes against a person" Means any matters involving arrests for alleged offenses against the person under Utah Code Ann., Title 76, Chapter 5, Offenses Against the Person. This Title and Chapter includes, but is not limited to, crimes where a person has assaulted, harassed, abused, neglected, exploited, endangered, kidnapped, murdered, trafficked, raped, sexually assaulted, etc. another person(s).

"Reasonable Cause" Means reliable information implicating an employee or volunteer in a sexual offense against a minor, an offense involving drugs, or other offense which is relevant to the subject's assignment

REFERENCES

Utah Code Ann. §53-10-108 – Limited use of records for employment purposes.

Utah Code Ann. §53A-3-410 – Criminal background checks on school personnel.

Utah Code Ann. §53A-6-401 – Background checks.

Utah Code Ann. §53A-6-501 – Disciplinary action against educator.

Utah Code Ann. Title 76, Chapter 5 – Offenses Against the Person

Utah Administrative Code R277-500-6 – Board Directive to Educator License Holders for Fingerprint Background Check

Utah Administrative Code R277-516 – Education Employee Required Reports of Arrests

* *The above policies have been adapted, in part, from Davis School District.*