



GATEWAY PREPARATORY ACADEMY

A M O N T E S S O R I C H A R T E R S C H O O L

Criminal Background Checks and Arrest Reporting Policy

The purpose of this policy is to protect the safety, health, and security, of charter school students, employees, and property. This policy is intended to ensure that all students are instructed and served by public school teachers, employees and volunteers who have not performed acts or violated laws that could or would result in endangering students.

Definitions

“Applicant”, “Candidate”, or “Potential Employee” includes all persons seeking employment or appointment for compensatory work with the charter school.

“Licensed Educator” has the meaning given that term in UAC R277-516.

“Employee” means a person being compensated by the School or a person employed by a company being compensated by the School for services rendered.

“BCI” Utah Department of Public Safety, Bureau of Criminal Identification, a state agency.

“Crimes Against a Person” includes assault, kidnapping, murder, manslaughter, reckless endangerment, abuse of a child or vulnerable adult, stalking, hazing, making a terroristic threat, and any other offense identified in UCA Title 76, Chapter 5.

“Criminal History Report” A report or record generated by the Bureau of Criminal Identification after a search of State of Utah criminal history files and/or other state and federal databases designed by law or by the District.

“Driving Record Report” Traffic-related offenses contained in the Utah Division of Motor Vehicle databases.

“Background Check” or “Background Investigation” As allowed by law, a review of criminal or other public records to obtain information on an applicant or employee that may include, but is not limited to, criminal history reports and driving records reports.

“School” the charter school for whom this policy applies.

Individuals Subject to Background Checks

Applicants (potential employees or candidates) must submit to a criminal background investigation as a condition of application, employment or appointment.

Volunteers with significant unsupervised access to a student in connection with the volunteer's assignment must submit to a criminal background check as a condition of service. Until the

background check is complete, the volunteer must remain under the supervised observation of a School employee.

A representative (individual, employee, and/or agent) of a company or organization having established an arrangement or agreement with the School to provide services to the school (such as food service vendors with casual access to students), or services with direct student access must submit to a District conducted criminal background check. The organization or representative shall pay the cost of the background check. Information obtained from the background check may be used as a basis to refuse access of the representative to the School, or student, at the sole discretion of the School. Failure to comply with this provision shall be basis for termination of the arrangement or agreement with the company or organization.

A background check shall be required for the renewal of any Utah educator license in accordance with Utah Administrative Code R277-501.

Non-licensed employees shall submit to a criminal background check at least every five years.

Where reasonable cause exists the School may require an existing employee or volunteer to submit to a criminal background check at any time.

Conducting the Background Check

Applicants and volunteers shall complete applicable forms as a condition of employment. The forms require self-disclosure of criminal misconduct or violations of the law. The information obtained from the background check and the forms will be compared for accuracy. Any misstatement, omission, or misinformation on the forms is grounds to not hire or for dismissal.

Employees, applicants or volunteers who decline to submit to a background check as allowed by law, who have criminal histories that put students or members of the School community at risk, as evidenced in the results of the background check, and/or fail to report a citing, arrest, charge, or conviction as outlined in this policy cannot be employed by the School, are subject to termination of employment, revocation of volunteering privileges and/or will not be offered employment.

A criminal conviction does not necessarily preclude employment or volunteering activities with the School. The School 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, the decision to not hire or the decision not to authorize volunteering activities by an individual. Likewise, the dismissal of a criminal offense or arrest does not necessarily preclude the School from taking administrative action against an employee or volunteer.

The School will immediately suspend an employee or volunteer from student supervision responsibilities pending the outcome of any investigation upon receipt of information concerning alleged offenses which may endanger students or interfere with the orderly operation of the school. Suspensions are generally without pay.

Review and Investigation

The School may consider both criminal and/or administrative findings. The safety and security of students will be the foremost consideration. The School shall consider each circumstance on a case-by-case basis and use the following factors to determine an applicant, current employee's or volunteer's suitability to work in the School.

- Type of conviction;
- Relevance of any 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.

Any statement of an applicant, employee or volunteer on applications, personnel records, forms and documents submitted to the School that is later deemed to be a misstatement, omission, or misinformation when verified with the results of a background check, is grounds to not hire, for dismissal or revocation of volunteering privileges.

If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person will receive written notice of the reasons for denial or dismissal and have an opportunity to respond within 5 working days. Volunteers who are denied volunteering privileges or who have volunteering privileges revoked will receive verbal notice and written notice upon request.

Information obtained from BCI in a background check is confidential within the guidelines of the Government Records and Access and Management Act (GRAMA).

Payment for Background Check

Applicants for employment, including substitutes, shall be required to pay the designated cost of background checks subject to the provisions of UCA § 53A-3-410. The School shall pay the cost of the background check for any non-licensed employee. Volunteers shall be required to pay the designated cost of a background check required for approval of volunteering activities.

Required Reporting of Arrest

A licensed educator (reportable as defined in UCA 53A-6-401), any and all other employees and volunteers of the School (reportable as defined in R277-516-4) who are cited, charged and/or arrested with the following alleged offenses shall report the incident(s) as soon as possible, or within 48 hours, using the Educator Notification of Arrest Form, to the School Principal or Director:

- any matters involving an alleged felony, or relevant misdemeanor offenses;
- any matters involving minors;
- any matters involving alleged sex offenses;
- any matters involving alleged drug-related offenses;
- any matters involving alleged alcohol-related offenses;
- any matters for which the subject is currently under court ordered probation; and
- any matters involving alleged offenses against the person under Title 76, Chapter 5, Offenses Against the person.

The employee or volunteer shall report to the School Principal or Director, any convictions, including convictions identified above, any pleas in abeyance, and any diversion agreements within 48 hours, or as soon as possible, upon receipt of notice of conviction, plea in abeyance, or diversion agreement using the Educator Notification of Arrest Form.

The Principal or Director shall report arrest, conviction or offense information to the Governing Board, as legally allowed by law, on all employees and volunteers.

The Principal or Director shall report arrest, conviction or offense information received from **Licensed Educators** to the Educator Licensing Department of the Utah State Office of Education (USOE, State Board or UPPAC) within 48 hours through forms found on the USOE website (UPPAC page of the Educator Licensing Department).

The employee shall report for work following an arrest and notice to the principal/director unless directed not to report for work by administration. Volunteers may report for volunteering activities following an arrest and notice to the principal/director unless directed not to report for volunteering activities by administration.

The School may take employment or disciplinary action (up to and including dismissal), refuse to consider an applicant for employment, or refuse to hire a selected applicant for any offense relevant to the subject's assignment, or grant volunteering privileges to volunteers. Offenses relevant to all School assignments include but are not limited to the following:

- any matters involving an alleged felony, or relevant misdemeanor offenses;
- any matters involving minors;
- any matters involving alleged sex offenses;
- any matters involving alleged drug-related offenses;
- any matters involving alleged alcohol-related offenses;
- any matters for which the subject is currently under court ordered probation; and
- any matters involving alleged offenses against the person under Title 76, Chapter 5, Offenses Against the person.

Additional References

- Utah Code Annotated (UCA) § 53-10-108 – Limited Use of Records for Employment Purposes
- UCA § 53A-1a-512 – Criminal Background Checks on School Personnel
- UCA § 53A-3-410 – Criminal Background Checks on School Personnel
- UCA § 53A-6-401 – Background Checks
- Utah Administrative Code (UAC) R277-501 – Educator Licensing Renewal and Timelines
- UAC R277-481 – Charter School Oversight, Monitoring and Appeals
- UAC R277-516 – Education Employee Required Reports of Arrests

Approved by the Board – May 9, 2013