

Criminal Background Checks and Arrest Reporting Policy

Effective 5/20/2017

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

Definitions

Applicant, Candidate, or Potential Employee: All persons seeking employment or appointment for compensatory work with Capstone Classical Academy.

Licensed Educator: Has the meaning given that term in UAC R277-516.

Employee: A person being compensated by Capstone Classical Academy or a person employed by a company being compensated by Capstone Classical Academy for services rendered.

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

Board Member: A person who serves on the Board of Trustees of Capstone Classical Academy.

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: Capstone Classical Academy, for whom this policy applies.

Individuals Subject to Background Checks

Applicants (potential employees or candidates who are at least 18 years old) must submit to a criminal background investigation as a condition of employment or appointment.

Volunteers with significant unsupervised access to a scholar 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 scholars), or services with direct scholar access must submit to a 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 scholars, 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.

Members of the Board of Trustees must submit to a criminal background investigation as a condition of appointment.

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, board members, and volunteers shall complete applicable forms as a condition of employment/appointment. 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, board members, or volunteers who decline to submit to a background check or who have criminal histories that put scholars or members of the school community at risk, as evidenced in the results of a 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 or appointment to the Board of Trustees.

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, board member, or volunteer.

The school will immediately suspend an employee, board member, or volunteer from scholar

supervision responsibilities pending the outcome of any investigation upon receipt of information concerning alleged offenses which may endanger scholars 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 scholars 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, board member'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, board member, 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/appointment to the Board of Trustees or is dismissed from employment/appointment to the Board of Trustees 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 five 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. 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 (as defined in UCA 53A-6-401), any and all other employees, and volunteers of the School (as defined in R277-516-4) who are cited, charged and/or arrested with the following alleged offenses must report the incident(s) as soon as possible, within 48 hours, using the Educator Notification of Arrest form, to the school 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/or

any matters involving alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

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

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

The 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 Director unless directed not to report for work by administration. Volunteers may report for volunteering activities following an arrest and notice to the 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 applicant's assignment, refuse appointment to or dismiss a current member of the Board of Trustees, or refuse to 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

UCA 53A-15-1508 – 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