



Subject:	Criminal Background Checks
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400.1 Purpose

To provide for criminal background checks on employees and applicants for employment.

400.2 Approval

USTC Board of Trustees approval: January 9, 2008. Revised: September 30, 2010; January 12, 2011; June 8, 2016; September 13, 2017.

400.3 References

UCA 53B-1-110, Criminal Background Checks of Prospective and Existing Employees of Higher Education Institutions

400.4 Definitions

- 4.1 **Applicant:** The final applicant offered employment, transfer, or promotion, contingent on acceptable results of a criminal background check and other reviews required for the position by the college, such as financial/credit checks, degree transcripts or license documentation, or student loan status.
- 4.2 **Background Check:** A combined Bureau of Criminal Identification (BCI) search of records which includes a nationwide Federal Bureau of Investigation (FBI) check.
- 4.3 **Employee:** Any individual who receives compensation for work or services from funds controlled by the Office of the USTC Commissioner or a technical college, regardless of the source of the funds, the duties of the position, the amount of compensation paid, or the percent of time worked. Volunteers, independent contractors, and others identified in 400.5.3 are not considered employees.

400.5 Policy

- 5.1 **Required Background Checks for Applicants:** An applicant for any position at the Office of the USTC Commissioner or a technical college must submit to a criminal background check as a condition of employment.
- 5.2 **Background Checks for Existing Employees:** Background checks must be conducted for all existing employees of the Office of the USTC Commissioner and all technical colleges.
- 5.3 **Background Checks for Volunteers and Independent Contractors:** All volunteers, contracted trainers, and private trainers, including customized training instructors at the Office of the USTC Commissioner or a technical college, who serve in any capacity which involves significant, unsupervised contact with secondary students must submit to a criminal background check.



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- 5.4 **Written Release of Information:** All applicants for employment and employees of the Office of the USTC Commissioner and all technical colleges shall be required to sign a release form to permit the background check.
- 5.5 **Notice a Background Check has been Requested:** If the existing employee does not provide a written and signed release as requested pursuant to 5.4, the employee shall receive written notice that the background check has been requested.
- 5.6 **Fingerprint Background Check:** The Office of the USTC Commissioner and all technical colleges shall require each applicant or employee subject to a criminal background check under this section to be fingerprinted and consent to a fingerprint background check by the Utah Bureau of Criminal Identification, the Federal Bureau of Investigation, or another government or commercial entity.
- 5.7 **Frequency:** Employees shall, as a condition of continued employment, submit to a background check a minimum of once every six years.
- 5.8 **Reasonable Cause:** Where reasonable cause exists, the USTC Commissioner or the technical college president may require an existing employee to submit to a background check. The cost of a "for cause" background check shall be paid by the Office of the USTC Commissioner or the technical college as applicable.
- 5.9 **Payment of Costs:** Applicants and employees may be responsible for payment of the cost of a background check.
- 5.10 **Risk Assessment:** Based on the convictions disclosed by the criminal background check, the USTC Commissioner or technical college president, or his or her designee, will assess the overall risk to persons and property and determine what, if any, action is required. Any action taken will be at the sole and absolute discretion of the USTC Commissioner or technical college president as applicable. That risk assessment will include:
- 5.10.1 The number of crimes committed;
 - 5.10.2 The severity of those crimes;
 - 5.10.3 The length of time since they were committed;
 - 5.10.4 The likelihood of recidivism;
 - 5.10.5 The security-sensitivity of the position sought by the applicant or held by the existing employee; and
 - 5.10.6 Other factors that may be relevant.



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- 5.11 **Opportunity to Respond:** If a person is denied employment or subjected to any adverse employment action because of information obtained in the background check, the person shall receive written notice of the reasons for the action and shall be provided opportunity to respond under applicable policy provisions.
- 5.12 **Financial/Credit Check:** If an applicant is applying for or an employee holds a security-sensitive position with access to sensitive personal information, or financial responsibilities over the funds of the college or others, the USTC Commissioner or technical college president, or his or her designee, may require an additional financial/credit check to be performed.
- 5.13 **Degree Transcripts or License Documentation:** If the position requires a degree or license, the college may obtain a copy of the applicant's degree transcripts or license documentation.
- 5.14 **Student Loan Status:** If an applicant or employee has a student loan, the college may check on the loan status. The college may deny employment or take adverse employment action if the applicant or employee has a delinquent or defaulted student loan.
- 5.15 **Reports of Arrest and Court Action**
- 5.15.1 An 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 immediate 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; or
 - (d) Any matters involving arrest for alleged offenses against the person under UCA Title 76, Chapter 5, Offenses against the Person.
- 5.15.2 An employee shall report convictions, including pleas in abeyance and diversion agreements, to his or her immediate supervisor within 48 hours or as soon as possible upon receipt of notice of the conviction, plea in abeyance, or diversion agreement.
- 5.15.3 The immediate supervisor shall report offense information received from the employee as soon as reasonably possible to the vice president or other executive officer over administrative services.
- 5.15.4 The employee shall report for work following the arrest and notice to the supervisor, unless directed not to report for work by the supervisor.



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5.15.5 Review, Investigation and Suspension

- (a) The USTC Commissioner or technical college president, or his or her designee as applicable, in cooperation with the employee's immediate supervisor, shall review arrest information and: (1) assess the employment status of the employee; and (2) determine appropriate employment action.
- (b) In cases which involve alleged sex offenses or other charges which may endanger students, the employee shall be suspended during the period of investigation.
- (c) An employee who is terminated or receives an adverse employment action as a result of information concerning arrest or court action shall be given appropriate due process based on USTC or technical college policy.

5.16 Limitations on the Use of Information: The information contained in all criminal history background checks will be available only to those persons involved in making employment decisions or performing background investigations. Information contained in criminal history background checks shall be used only for the purpose of making employment or promotion decisions.