



NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

SECTION: G - Personnel
POLICY TITLE: Employment Background Checks
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1. PURPOSE AND PHILOSOPHY

Nebo School District is committed to providing a safe and secure educational and working environment for students and employees. As part of this effort, the District requires criminal Background Checks of Licensed Educators, Non-licensed Employees, Contract Employees, and Volunteers pursuant to Utah laws, rules, and regulations, and in accordance with this policy.

2. DEFINITIONS

- 2.1 **“Background Check”** means the process by which the Criminal History Report of an applicant or employee is retrieved. The process typically includes, but might not be limited to, taking the applicant’s or employee’s fingerprints and submitting them to the Bureau.
- 2.2 **“Bureau”** refers to the Bureau of Criminal Identification within the Department of Public Safety.
- 2.3 **“Contract Employees”** are independent contractors or employees of a staffing service who work for the District under an independent contract or a contract between the staffing service and the District and who have been given significant unsupervised access to a student in connection with the contract. For purposes of this policy Contract Employees do not include seasonal or temporary employees.
- 2.4 **“Criminal History Report”** is a document generated by the Bureau of Criminal Identification after a search of the State of Utah’s criminal history files and/or other state and federal databases designated by applicable law or by the District.
- 2.5 **“License applicant”** means:
 - 2.5.1 an individual applying to the State Board of Education for a license; or
 - 2.5.2 an individual applying to the State Board of Education for reinstatement of an expired, lapsed, suspended, or revoked license.

- 2.6 “Licensed Educator”** means an individual employed by the District who holds a valid Utah educator license and has satisfied all requirements to be a Licensed Educator in the Utah public school system or is on a Letter of Authorization from the Utah State Office of Education (USOE) (i.e., school teachers, administrators, psychologists, counselors, specialists, etc.). Licensed Educators may or may not be employed in a position that requires an educator license. Licensed Educators also include individuals who are student teaching, interning, involved in the alternative routes to licensure program, and individuals who hold District specific licenses.
- 2.7 “Non-licensed Employee”** means an individual employed by the District who does not hold a current Utah educator license issued by the Utah State Board of Education under Utah Code Annotated Title 53A, Chapter 6, Educator Licensing and Professional Practices Act.
- 2.8 “Personal Identifying Information”** means the following:
- 2.8.1** current names, former names, nicknames, and aliases;
 - 2.8.2** date of birth;
 - 2.8.3** address;
 - 2.8.4** telephone number;
 - 2.8.5** driver license or other government-issued identification number
 - 2.8.6** Social Security number; and
 - 2.8.7** fingerprints.
- 2.9 “Rap Back System”** is a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
- 2.10 “Volunteer”** means an individual who has been authorized under Nebo School District Policy #KB – Volunteers to donate time and services to the District and who has been given significant unsupervised access to a student in connection with the Volunteer’s assignment.
- 2.11 “WIN Database”** is the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

3. BACKGROUND CHECKS OF NON-LICENSED EMPLOYEES, CONTRACT EMPLOYEES, AND VOLUNTEERS

- 3.1.** Utah law requires Background Checks and ongoing monitoring of all Non-licensed Employees, Contract Employees, and Volunteers (Utah Code Ann., §53A-15-1503). Accordingly, the District requires each applicant for employment as a Non-licensed Employee or Contract Employee, as well as each potential Volunteer (herein referred to cumulatively as the “prospective employee”) to submit to a Background Check prior to employment or service in the District. Procedures for each are as follows:
- 3.1.1.** Consistent with Nebo School District Policy #GCD – Hiring Practices, applicants for employment as Non-licensed Employees who are recommended to the Department of Human Resources by the hiring principal or supervisor for authorization to employ shall submit to a Background Check prior to commencing employment.
 - 3.1.2.** Prospective Contract Employees may not commence employment under the contract until the Background Check has been completed and authorization granted by the Department of Human Resources.

- 3.1.3.** Volunteers who will be given significant unsupervised time with one or more students may not commence Volunteer service until the Background Check has been completed and authorization granted by the Department of Human Resources.
- 3.2.** Each prospective employee must consent to an initial Background Check and to retention by the District of Personal Identifying Information for ongoing monitoring through registration with the WIN Database Rap Back System and the Rap Back System maintained by the Federal Bureau of Investigation. Consent is given by completing the Nebo School District Consent for Background Check and Ongoing Monitoring form. The form shall be submitted to the District along with the application for employment. Student employees under the age of eighteen (18) years are not required to be fingerprinted.
- 3.3.** To facilitate completion of the Background Check, each prospective employee shall provide Personal Identifying Information to the District as part of the application process.
- 3.4.** The Background Check is a condition of employment or Volunteering. Consistent with Utah Code Annotated, Section 53A-15-1503, the prospective employee shall pay all costs of the Background Check.
- 3.5.** The District shall conduct the Background Check by submitting the prospective employee's Personal Identifying Information to the WIN Database Rap Back System and the Rap Back System maintained by the Federal Bureau of Investigation. The Rap Back Systems then return the Criminal History Report to the District. The Criminal History Report is reviewed only by those involved in making hiring decisions.
- 3.6.** When making decisions regarding initial employment of prospective employees, the District shall consider the following:

 - 3.6.1.** Any convictions, including pleas of abeyance;
 - 3.6.2.** Evidence of conduct giving rise to matters involving a felony;
 - 3.6.3.** Evidence of conduct giving rise to matters involving an alleged

 - 3.6.3.1.** sexual offense;
 - 3.6.3.2.** Class A misdemeanor drug offense;
 - 3.6.3.3.** offense against the person as described in Utah Code Ann., Title 76, Chapter 5, Offenses Against the Person (including but not limited to: assault and related offenses, criminal homicide, kidnapping, trafficking, smuggling, and sexual offenses);
 - 3.6.3.4.** Class A misdemeanor property offense that is alleged to have occurred within the previous three years; and
 - 3.6.3.5.** criminal offense of any other type if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.
- 3.7.** If the prospective employee is disqualified as a result of the Criminal History Report, the District shall provide the disqualified applicant with written notice of the reasons for disqualification and the disqualified applicant's right to request a review of the disqualification. Additionally, the disqualified applicant may request a review of the information received and the reasons for disqualification consistent with Utah Code Ann., Section 53-10-108(4)(e).
- 3.8.** If a current employee is disciplined or terminated from their employment because of information obtained through a Background Check or ongoing monitoring, the employee shall receive

written notice of the reasons for discipline or termination and have an opportunity to respond to the reasons for the discipline or termination in accordance with the procedures set forth in any applicable Utah law, rules, or regulations; Certified or Classified Employees Agreements; Memorandums of Understanding; and District policies.

4. BACKGROUND CHECKS OF LICENSED EMPLOYEES

The State Board of Education requires all License Applicants to submit to a Criminal Background Check and ongoing monitoring as a condition for licensing or renewing a license. The District will receive notification of a new entry made against an individual from the Bureau.

5. REQUIRED REFERENCE CHECKS

Under Utah law, before employing any individual or assigning any individual to a volunteer assignment which would give the individual significant access to a student, the District must request information regarding any employment action taken or discipline imposed for the physical abuse or sexual abuse of a child or student by the applicant or volunteer. The information must be requested from the most recent employer who employed the applicant or volunteer in a qualifying position, which means paid employment that required the applicant or volunteer to directly care for, supervise, control, or have custody of a child. The information will be requested in accordance with Nebo School District Policy #GCD – Hiring Practices.

6. LICENSED EMPLOYEES - REPORTING OF ARRESTS AND CONVICTIONS

- 6.1.** A Licensed Educator who is arrested, cited, or charged with any of the following alleged offenses shall report the arrest, citation, or charge within forty-eight (48) hours or as soon as possible to the Superintendent or his/her designee:
 - 6.1.1.** any matters involving an alleged sex offense;
 - 6.1.2.** any matters involving an alleged drug-related offense;
 - 6.1.3.** any matters involving an alleged alcohol-related offense;
 - 6.1.4.** any matters involving an alleged offense against a person as set forth in Utah law. The offenses include, but are not limited to, crimes where a person has assaulted, harassed, abused, neglected, exploited, endangered, kidnapped, murdered, trafficked, raped, sexually assaulted, etc. another person(s);
 - 6.1.5.** for employees who drive motor vehicles as an employment responsibility, any matters relating to arrests for violations of the vehicle code including, but not limited, to reckless driving, etc.
- 6.2.** A Licensed Educator shall report convictions, including pleas in abeyance and diversion agreements, and any kind of court probation, within forty-eight (48) hours or as soon as possible upon receipt of notice of the conviction or plea in abeyance.
- 6.3.** A Licensed Educator may be immediately suspended from his/her duties and placed on either suspension or paid administrative leave for alleged sex offenses and other alleged offenses that may endanger students during the period of investigation.
- 6.4.** A Licensed Educator may be immediately suspended from transporting students or driving a public education vehicle for alleged offenses involving alcohol or drugs during the period of investigation, and where reasonable cause exists, an existing employee must submit to a Background Check.
- 6.5.** The District will provide adequate due process for the accused employee consistent with the procedures set forth in any applicable Utah law, rules, or regulations; employee handbook; and District policies.

- 6.6. The Superintendent or his/her designee shall report conviction, arrest, or offense information received from a Licensed Educator to the USOE within forty-eight (48) hours of receipt of the information from Licensed Educators.
- 6.7. The Licensed Educator shall report for work directly to the Superintendent or his/her designee following the arrest or conviction unless directed not to report for work by the District.
- 6.8. The Director of Human Resources and the applicable Department Director shall review arrest and conviction information and make employment decisions that protect both the safety of students and/or employees and the confidentiality and due process rights of employees. Only job related convictions shall be considered in employment decisions.
- 6.9. Records of arrests and convictions shall be placed in the employee's Personnel File upon receipt by the District and will:
 - 6.9.1. include final administrative determinations and actions following investigation; and
 - 6.9.2. be maintained only as necessary to protect the safety of students and/or employees and with strict requirements for the protection of confidential employment information.

7. NON-LICENSED EMPLOYEES, CONTRACT EMPLOYEES, AND VOLUNTEERS - REPORTING OF ARRESTS AND CONVICTIONS

- 7.1. Individuals who are subject to Background Checks who are arrested for any of the following alleged offenses shall report the arrest within forty-eight (48) hours or as soon as possible to the Superintendent or his/her designee:
 - 7.1.1. any matters involving an alleged sex offense;
 - 7.1.2. any matters involving an alleged drug-related offense;
 - 7.1.3. any matters involving an alleged alcohol-related offense;
 - 7.1.4. any matters involving an alleged offense against a person as set forth in Utah law. These include, but are not limited to, crimes where a person has assaulted, harassed, abused, neglected, exploited, endangered, kidnapped, murdered, trafficked, raped, sexually assaulted, etc. another person(s); and
 - 7.1.5. for employees who drive motor vehicles as an employment responsibility, any matters relating to arrests for violations of the vehicle code including, but not limited to, reckless driving, etc.
- 7.2. An individual shall report convictions, including pleas in abeyance, and any kind of court probation, within forty-eight (48) hours or as soon as possible upon receiving notice of the conviction or plea in abeyance.
- 7.3. A Non-licensed Employee may be immediately suspended and placed on either paid or unpaid administrative leave for alleged sex offenses and other alleged offenses that may endanger students during the period of investigation.
- 7.4. A Non-licensed Employee may be immediately suspended from transporting students or driving a public education vehicle for alleged offenses involving alcohol or drugs during the period of investigation, and where reasonable cause exists, an existing employee must submit to a Background Check.
- 7.5. The District will provide adequate due process for the accused employee consistent with the procedures set forth in any applicable Utah law, rules, or regulations; Classified Employees Agreements; Memorandums of Understanding; and District policies.
- 7.6. The Director of Human Resources and the applicable Department Director shall review arrest and conviction information and make employment decisions that protect both the safety of students and/or employees and the confidentiality and due process rights of employees. Only

- job related convictions shall be considered in employment decisions. Individuals shall report for work following the arrest and giving notice to the employer, unless directed not to do so.
- 7.7.** Records of arrests and convictions shall be placed in the employee's Personnel File upon receipt by the District and will:
- 7.7.1.** include final administrative determinations and actions following investigation; and
 - 7.7.2.** be maintained only as necessary to protect the safety of students and/or employees and with strict requirements for the protection of confidential employment information.
- 7.8.** The District shall provide appropriate training to Licensed Educators, Non-licensed Employees, Contract Employees, and Volunteers about the provisions of this policy for self-reporting and ethical behavior.

8. DISTRICT RESPONSIBILITIES

- 8.1.** By September 1, 2018, the District shall collect the information listed in section 5.1, which is required to conduct a Background Check, from the following individuals who were employed or appointed prior to July 1, 2015, and with whom the District currently maintains an authorizing relationship:
- 8.1.1.** Non-licensed Employees;
 - 8.1.2.** Contract Employees; and
 - 8.1.3.** Volunteers.
- 8.2.** By September 1, 2018, the District shall submit the information described in 5.1 to the Bureau for an initial Background Check and for ongoing monitoring through registration with the WIN Database Rap Back System and the Rap Back System maintained by the Federal Bureau of Investigation. With assistance from the Bureau, the District shall identify the appropriate risk mitigation strategy to ensure that it only receives notifications for individuals with whom it maintains an authorizing relationship.
- 8.3.** If an individual is disciplined or terminated from their employment because of information obtained through a Background Check, the individual shall receive written notice of the reasons for discipline or termination and have an opportunity to respond to the reasons for the discipline or termination in accordance with the procedures set forth in any applicable Utah law, rules, or regulations; District policies; and Employee Handbooks.
- 8.4.** When arrest/conviction information is received by the District regarding a Non-licensed Employee, the Superintendent or his/her designee shall review that information and assess the employee's employment status under applicable Utah law, rules, and regulations; District Policy; and any applicable Employee Handbook.
- 8.5.** The District shall cooperate with the USOE in investigations of Licensed Educators.
- 8.6.** The District may exempt a Non-licensed Employee, a Contract Employee, or a Volunteer from ongoing monitoring if the individual is being temporarily employed or appointed.
- 8.7.** After the conclusion of the 2018–2019 school year, the District shall cooperate with the legislative auditor general in its review of the extent to which criminal Background Check procedures and ongoing monitoring adequately detect and identify the criminal histories of individuals who are employed by or who are Volunteers in the District.
- 8.8.** The District will provide adequate due process for the accused employee consistent with the procedures set forth in any applicable Utah law, rules, or regulations; District policies; and Employee Handbooks.
- 8.9.** The District is required to identify an appropriate risk mitigation strategy to ensure that the District only receives notifications for individuals with whom it has an authorizing relationship. To ensure notifications are not received for individuals no longer employed by the District,

administrators and supervisors must notify the Human Resources Department anytime an employee's employment is concluded.

EXHIBITS

None

REFERENCES

Utah Code Ann., §53A-6-401, et seq.
Utah Code Ann., §53A-15-1501, et seq.
Utah Code Ann., §76-5-101 through 504
Utah Administrative Code, R277-500
Utah Administrative Code, R277-516
Nebo School District Policy #KB – Volunteers
Nebo School District Certified Employee Handbook
Nebo School District Classified Employee Handbook
Nebo School District Management Team Handbook

FORMS

Nebo School District Authorization and Consent for Reference Checks (Nimble)
Nebo School District Consent for Background Check and Ongoing Monitoring (v2015-10) (Qualtrics w/in Nimble)

HISTORY

Revised: 21 November 2022 – made technical changes adding new logo.
Revised: 7 October 2015 –
Adopted or Revised: 14 October 2009.
