



POLICY TITLE	Background Checks	Policy Number	333
Section	Human Resources	Approval Date	February 21, 2019
Subsection	Conditions of Employment	Effective Date	February 21, 2019
Responsible Office	Office of the Vice President of Planning, Budget, and Human Resources		

1.0 PURPOSE

1.1 This policy establishes the background check requirements and processes for Utah Valley University prospective employees, current employees, and certain volunteers to protect employees, students, property, and assets. The University provides this formal process of background checks and verifications to (1) minimize institutional risk, (2) comply with federal and state regulations that require it for specified positions, and (3) help responsible hiring managers make sound hires.

2.0 REFERENCES

- 2.1** *Americans with Disabilities Act of 2008 (ADAAA)* (as amended)
- 2.2** *Fair Credit Reporting Act (FCRA)*, 15 USC § 1681 et seq.
- 2.3** Title VII of the *Civil Rights Act of 1964*, as amended, 42 U.S.C. § 2000e et seq. (Title VII)
- 2.4** *EEOC Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964*
- 2.5** Utah Code Annotated 34-52-101, et seq. *Reducing Barriers to Employment for Individuals with Criminal Records*
- 2.6** Utah State Board of Regents' Policy R847 *Criminal Background Checks*
- 2.7** UVU Policy 405 *Fleet Management*
- 2.8** UVU Policy 704 *Minors on Campus and at University-Sponsored Events*



3.0 DEFINITIONS

3.1 Background check: May consist of one or more verification processes, including (1) the University using a third-party agency to conduct a criminal background check, credit check, and/or employment/education verification and/or (2) the University conducting a motor vehicle check, employment/education or other reference verification, degree/transcript verification, license/certification verification, or student loan status verification.

3.2 Criminal background check: A review of an individual's criminal background by a third-party agency that includes criminal records (misdemeanor or felony convictions) and sex offender registries, and may include the OFAC (Office of Foreign Assets Control of the US Department of Treasury) Terrorist Watch list. Criminal background checks will be conducted in the cities and counties of known residences where an applicant lived or worked for the past seven years and will include a search of all available sex offender registries in those areas.

3.3 Minor: For the purposes of this policy, an individual younger than 18 years of age.

3.4 Security-sensitive position: Position in which the job duties require, provide for, or encompass the potential to incur human, financial, or property loss or other harm to the University and its constituents. Individual departments may be subject to additional restrictions, requirements, laws, or regulations. A security-sensitive position includes at least one of the following elements:

- 1) Regular potential access to minors, including in a child care center, or to vulnerable adults;
- 2) Relationships with students where exceptional trust and responsibility are involved, such as faculty, counselors, academic advisors, healthcare providers, coaches, and student residence personnel;
- 3) Responsibility for providing direct medical care, treatment, or counseling and/or access to pharmaceuticals, toxins, hazardous, or controlled substances;
- 4) Direct access to laboratory materials and other property that have the potential of being misused either for financial gain or for harmful, dangerous, or illegal purposes;
- 5) Decision-making authority for committing university funds or financial resources through contracts and commitments and/or direct access to or responsibility for handling cash, checks, credit/debit cards or cash equivalents, university property, disbursements, or receipts;
- 6) Access to building master control and key systems;



- 7) Access to confidential information or sensitive personal information such as employment, health, donor, financial, and other records, including data that could facilitate identity theft;
- 8) Access to or responsibility for the maintenance, upgrading, and repair of the University's computer networks and/or information technology systems; and
- 9) Responsibility for police, security, guard forces, or other significant health or safety issues.

3.5 Volunteer: An individual who is unpaid in their service at the University, offers services freely without coercion or pressure to serve, and has no expectation of receiving pay or other benefits.

3.6 Vulnerable adult: An adult who, because of physical or mental disability or dependency on accessibility or other institutional services, is particularly vulnerable to maltreatment.

4.0 POLICY

4.1 Scope of Policy

4.1.1 This policy applies to all Utah Valley University employees, including full-time and part-time faculty, staff, and student employees, final applicants to university positions, interns, certain volunteers, and in certain circumstances, contractors and their employees.

4.2 Statement of Policy

4.2.1 Utah Valley University conducts background checks to promote the University's commitment to safe and secure educational and working environment and in compliance with applicable Board of Regents policy, state law, federal law, privacy law, antidiscrimination laws, and applicable background check laws.

4.2.2 The University requires the following individuals to undergo and successfully pass all necessary and relevant background checks before they may begin employment or other service:

- 1) Candidates for employment with the University, including all part-time and full-time faculty, executive, staff, and student positions;
- 2) Temporary employees accepted into the Human Resources temporary pool;



3) Current or past employees considered for rehire, reinstatement, and/or change of assignment (unless Human Resources has conducted a background check appropriate for the position on the individual within the previous two years);

4) University volunteers assigned to work with minors in university-sponsored or co-sponsored programs or events, unless the event qualifies as a discrete event under UVU Policy 704 *Minors on Campus and at University-Sponsored Events*; and

5) Contractors and their employees in certain cases where such individuals will have regular longer term contact with University employees or students.

4.2.3 Background checks must include criminal history, including a registered sex offender registry check. Dependent on the specific position, background checks may also include credit checks, motor vehicle records, employment/education verification, professional license and certification verification, degree/transcript verification, other reference verification, student loan status verification, and/or other job-related information.

4.2.4 An employment/education verification shall be conducted when an offer of employment, transfer, or change of assignment to an executive or faculty position requires certain educational and/or licensing credentials.

4.2.5 For any position that requires an educational degree or license/certification, the University reserves the right to obtain a copy of the applicant's degree/transcripts or license/certification documentation. Individual departments are responsible for ensuring that evidence of continued licensure is tracked and documented. After hire or change of assignment, employees and other individuals covered by this policy are required to report promptly any subsequent loss or suspension of required license/certification.

4.2.6 Individuals are responsible for providing truthful, accurate, and complete information for all background checks. Violations of this requirement, including providing false or incomplete information in application or applications materials, during the hiring process or during background check processes, shall be handled in accordance with applicable university policies and procedures, which may include disqualification from employment, promotion, or volunteer opportunities and/or corrective actions, up to and including termination.

4.2.7 After hire or change of assignment, employees and other individuals covered by this policy are required to promptly report any subsequent criminal convictions, guilty pleas, or pleas in abeyance that occur after their hire, excluding misdemeanor offenses punishable only by a fine, to Human Resources.

4.2.8 Human Resources is responsible for coordinating background checks with the University's designated third-party vendor(s) and for reviewing and determining whether the results of such



checks meet university requirements, in consultation with the Office of General Counsel. Hiring managers or their designees on the hiring committee are responsible for conducting reference checks.

4.2.9 All Utah Valley University employees involved in the background check process are responsible for ensuring the integrity and confidentiality of the background check process. All information obtained through the criminal and credit background check process is highly confidential; therefore, access to such information is limited to Human Resources and the Office of General Counsel. Human Resources shall maintain the results of the background check process in strict confidentiality and shall keep the results separate from regular personnel files. All such documents are designated as private under the Utah Government Records and Management Act (GRAMA).

5.0 PROCEDURES

5.1 Authorization for Background Checks

5.1.1 Human Resources will initiate the background check only after a conditional offer of employment or other service has been made to and accepted by the candidate. A candidate for an executive position may be asked to have their background checks completed before the on-campus interview. Employment or service in the new position may not begin until Human Resources has determined that the candidate has successfully passed all required background checks.

5.1.2 Candidates who have accepted a conditional offer of employment must sign a written consent from UVU's third-party vendor to conduct the background check and to release the information to the University. The University may also require individuals who are being hired for certain positions to be subject to fingerprinting as part of a criminal background check.

5.2 Motor Vehicle Record Check

5.2.1 Any applicant for a position that requires the operation of a motor vehicle is subject to a motor vehicle record check, which will be conducted in accordance with UVU Policy 405 *Fleet Management*.

5.3 Credit Check

5.3.1 A satisfactory credit check may only be required when it is a bona fide occupational requirement of the position and as allowed by law. Individuals applying for or employees currently holding a security-sensitive position, including positions that involve the handling of



credit cards, cash, or other university funds (including financial aid and scholarships), may be subject to credit checks.

5.4 Evaluation of Background Checks

5.4.1 Upon completion of the background check, the agency conducting the check will provide the Human Resources designee with a complete report. To ensure confidentiality of applicant information, Human Resources will review the report and communicate to the hiring manager whether the applicant is eligible for employment or service in the position.

5.4.2 Information obtained in a background check will be compared with information provided by the applicant. An applicant who provides false, incomplete, or misleading information on an application, resume, or other written submissions, or in an interview, will be immediately eliminated from further consideration for employment. An employee who provides false, incomplete, or misleading information during the application or interview process may be subject to corrective action, up to and including termination of employment.

5.4.3 Having a criminal conviction does not automatically preclude employment. The Human Resources designee, in consultation with the Office of General Counsel, evaluates the relevance of the criminal history of the individual being considered for hire to the position being filled. The nature and gravity of the offense, the circumstances surrounding it, the proximity in time of the conviction and/or completion of sentence, and its relevance to the nature of the job for which the applicant has applied will be considered on a case-by-case basis.

5.4.4 For employment or volunteer positions involving regular contact with minors and/or vulnerable adults, a criminal history involving any of the following offenses will likely result in the disqualification of the volunteer/candidate or termination/reassignment of current employees: (1) conviction for crimes against or involving a minor or vulnerable adult, including but not limited to child abuse, neglect, abandonment, or sexual crimes of any nature; or (2) a conviction for any other crime that the University determines would create an unacceptable level of risk.

5.4.5 For positions requiring a credit check, the Human Resources designee in consultation, if needed, with the Office of General Counsel and with the Associate Vice President for Finance and Administration, evaluates the relevance of the information obtained regarding the individual being considered for hire to the position being filled. The nature of the information and its relevance to the nature of the job for which the applicant has applied will be considered on a case-by-case basis.

5.4.6 If any background check report yields information that may warrant further investigation, the Human Resources designee may interview the candidate about the background check.



5.4.7 If a current employee's background check information precludes the employee from being hired into a new position, the employee typically will remain in their former position. However, if an employee's background check information or other disclosure of an employee's conviction, guilty plea, or plea in abeyance, reflects that the employee is not qualified or casts doubt on their ability to safely perform the former job duties, the employee may be precluded from returning to their former position but may be considered for another vacant position if similar concerns do not exist for that vacant position.

5.4.8 The only data and information that the hiring manager will receive from Human Resources concerning an applicant's background check is whether the investigation on the applicant yielded satisfactory or unsatisfactory results.

5.4.9 Human Resources will maintain data collected as part of the background check in separate confidential files. Any employee who is responsible for an unauthorized disclosure of information collected under this policy will be subject to corrective action, up to and including termination of employment.

5.5 Applicants' Rights and Obligations

5.5.1 Applicants for employment, volunteer service, promotion, or vacant positions must disclose criminal convictions (excluding convictions that have been sealed or expunged) on the *Background Check Authorization Form* provided by the background check agency. The nature and gravity of the information and its relevance to the duties and responsibilities of the job for which the applicant has applied will be considered on a case-by-case basis.

5.5.2 If the University intends to take an adverse employment action because of information in the background check report, the University will provide the applicant with a pre-adverse action letter or notice that an adverse action may be taken based at least in part on information provided in the background check report, a copy of the information on which the adverse action will be based, and other information as required by law.

5.5.3 An applicant denied employment based on unsatisfactory results of the background check report who believes his or her background check information is incorrect as reported by the agency may contact the agency or other entities to provide correct information. The applicant is ineligible for hire to the position unless the official records obtained through the third-party vendor confirm the correction to the information.

5.5.4 If the University decides to take an adverse employment action because of information in the background check report, the University will provide the applicant with an adverse action letter informing the applicant of their rights as required by law.



5.5.5 Background check decisions and adverse action letters are final and may not be appealed or grieved within the University.

POLICY HISTORY		
January 8, 2009	Approved for entrance to the Policy Manual	UVU Board of Trustees
February 21, 2019	Revised policy approved.	UVU Board of Trustees