



POLICY TITLE	Background Checks	Policy Number	333
Section	People and Culture	Approval Date	April 25, 2024
Subsection	Conditions of Employment	Effective Date	April 25, 2024
Responsible Office	Office of the Vice President of People and Culture		

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 *Reducing Barriers to Employment for Individuals with Criminal Records*, Utah Code Annotated § 34-52-101, et seq.

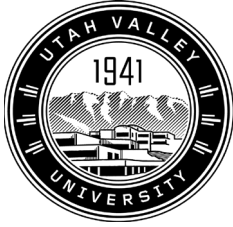
2.6 *Criminal Background Checks of Prospective and Existing Employees of Higher Education Institutions—Institutions to Adopt Policy*, Utah Code Annotated § 53B-1-110

2.7 *Background Checks*, Utah Code Annotated § 53G-11-4

2.8 Utah State Board of Higher Education Policy R847 *Criminal Background Checks*

2.9 UVU Policy 371 *Corrective Actions and Termination for Staff Employees*

2.10 UVU Policy 405 *Fleet Management*



2.11 UVU Policy 649 Faculty Sanction and Dismissal for Cause

2.12 UVU Policy 704 Minors on Campus and at University-Sponsored Events

3.0 DEFINITIONS

3.1 Applicant: The final applicant offered employment, transfer or promotion, or the person offered a volunteer position, contingent on acceptable results of a background check and other reviews required for the position by the University such as financial/credit checks, degree transcripts or license documentation, or student loan status.

3.2 Background check: A commercial or governmental process of searching public records to determine no less than whether an individual has been convicted of criminal conduct anywhere in the United States of America within no less than the last seven years. The University may choose to specify a longer time period, search in one or more foreign countries, or seek additional information such as arrests or other evidence of character issues as part of a background check. A background check may also 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. Diminished capacity adult: A person who lacks decision-making capacity that requires, to greater or lesser degree: (1) possession of a set of values and goals; (2) the ability to communicate and to understand information; and (3) the ability to reason and to deliberate about one's choices.

3.3 Minor: For the purposes of this policy, an individual younger than 21 years of age.

3.4 Reasonable cause: Where the known facts and circumstances are sufficient to warrant a person of reasonable prudence to believe that the employee poses an unreasonable risk to persons or property and/or a history or report of a crime will be found. Reasonable cause can also apply to specific job positions, where periodic criminal background checks (including yearly checks) are necessary for employees in security-sensitive positions.

3.5 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. Besides institution-wide designations of security sensitive positions, 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 children, including in a child care center, or to diminished capacity 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.

3.6 Significant contact with minors: An employee position involves significant contact with a minor if there is a reasonable expectation that in the course of the normal, routine responsibilities of the position, the employee and a minor would interact on a one-on-one basis. For example, teachers with office hour consultations, mentors, counselors, test center employees, coaches, and advisors could all reasonably expect to interact one-on-one with students as a normal, routine part of their work and hence would have “significant contact” with one or more minor persons during the course of their employment.

3.7 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.

3.8 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 Utah Board of Higher Education 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) All 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 People and Culture temporary pool;
- 3) Current or past employees considered for rehire, reinstatement, and/or change of assignment (unless People and Culture has conducted a background check appropriate for the position on the individual within the previous two years);
- 4) University volunteers assigned to work with individuals under the age of 18 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 Applicants for any employment position that involves significant contact with minors or any position considered to be security sensitive by the University must submit to a criminal background check as a condition of employment.

4.2.4 An existing employee must submit to a criminal background check where the Office People and Culture finds that reasonable cause exists. People and Culture consults with the Office of General Counsel in making reasonable cause determinations.



4.2.5 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.

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

4.2.7 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.

4.2.8 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.

4.2.9 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 People and Culture.

4.2.10 People and Culture 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.

4.2.11 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 persons involved in making employment or volunteer decisions or performing the background investigation and shall only be used for the purpose of making an employment, volunteer, or promotion decision. The People



and Culture 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 People and Culture will initiate the background check only after a conditional offer of employment or other service has been made to and accepted by the applicant or for current employees where reasonable cause exists. Employment or service in the new position may not begin until People and Culture has determined that the applicant has successfully passed all required background checks.

5.1.2 Applicants who have accepted a conditional offer of employment or other service must sign a written consent from UVU's third-party vendor to conduct the background check and to release the information to the University.

5.1.3 For current employees, the University shall request a written and signed release of information to conduct a criminal background check for reasonable cause. If the existing employee does not provide a written and signed release, the employee shall receive written notice from People and Culture that the background check has been requested.

5.2 Fingerprint Background Check

5.2.1 The University may also require an employment applicant or employee subject to a criminal background check 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.

5.2 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, other university funds (including financial aid and scholarships), or access to sensitive personal information, may be subject to credit checks.

5.3.2 If an applicant or employee has a student loan, the University may check on the loan status. The University may deny employment or take adverse employment action if the applicant or employee has a delinquent or defaulted student loan.

5.4 Evaluation of Background Checks

5.4.1 Upon completion of the background check, the agency conducting the check will provide the People and Culture designee with a complete report. To ensure confidentiality of applicant information, People and Culture 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 People and Culture 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 the number of crimes committed, the nature and severity of the offense(s), 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, the likelihood of recidivism, and the security sensitivity of the position sought, and other factors will be considered on a case-by-case basis. The University may determine that an individual with a criminal history should be considered eligible to obtain or retain the position, or that additional documentation should be required.

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, applicant, 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 People and Culture 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 People and Culture designee may interview the applicant or employee 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 People and Culture concerning an applicant's background check is whether the investigation on the applicant yielded satisfactory or unsatisfactory results.

5.4.9 People and Culture 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 Employees' and 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 or volunteer has applied will be considered on a case-by-case basis.

5.5.2 If the University intends to deny employment or other service to an applicant or take an adverse employment action against a current employee because of information obtained in the background check report, the University will provide the applicant or employee with a copy of the report, written notice of the reasons for denial or the adverse action, a written description of their rights under the *Fair Credit Reporting Act*, and an opportunity to respond to the reasons and any information received as a result of the background check. If an applicant or employee disagrees with the accuracy of any information in the report and notifies People and Culture within three business days of their receipt of the report, the University shall provide a reasonable



opportunity to address the information contained in the report. The applicant is responsible to contact the agency or other entities to provide correct background check 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.

5.5.3 For current employees, adverse employment actions based on a result of the background check will be made in accordance with UVU Policies 371 and 649.

5.6 Concurrent Enrollment Faculty

5.6.1 University employees, whether full-time or adjunct faculty, who are concurrent enrollment instructors with unsupervised access to K–12 students shall complete a criminal background check consistent with Utah Code §53G-11-4. The University shall determine the need for the criminal background check consistent with the law, shall satisfy this requirement, and shall maintain appropriate documentation.

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
October 16, 2019	Non-substantive changes made to these sections. “His or her” updated to “they,” singular pronoun: 5.5.3	UVU Policy Office
January 4, 2024	Non-substantive changes made to change “Human Resources” to “People and Culture”	UVU Policy Office
April 24, 2024	Compliance change, mandated by SB 192, approved.	UVU President’s Council
May 6, 2024	Compliance change ratified.	UVU Board of Trustees