

## SALT LAKE COUNTY HUMAN RESOURCES POLICY & PROCEDURE

### BACKGROUND CHECK REQUIREMENTS

#### REFERENCE

Utah Code Annotated § 53-10-108 Utah Administrative Code R722-900-1 – 5

Salt Lake County Code of Ordinances § 2.80.150

Human Resources Policies and Procedures:

5025 Human Resources Policy General Instructions

5100 Employment Status

5250 New Hire Requirements

5300 Termination of Employment

Salt Lake Countywide Policies and Procedure:

4005 Volunteer Recruitment and Guidelines

#### PURPOSE

The purpose of this policy is to establish the basis and procedure for the County and its agencies to request background checks on current employees, candidates, and volunteers. The County enacts and implements this policy to protect the safety, health, and security of County citizens, employees, and property.

#### SUBJECTS COVERED UNDER THIS POLICY

- **Definitions**
- **Application**
- **Procedure**
- **Record Keeping**

#### 1.0 DEFINITIONS

As used in this policy and procedure:

- 1.1 “Agency” means an administrative unit of Salt Lake County government. An agency is an Elected Office, Department or a Division.
- 1.2 “Background Check” means a name, a fingerprint, a Federal Bureau of Investigation, or other investigation designed to reveal any criminal history of a candidate, an employee, or a volunteer.
- 1.3 “Background Check List” means the list of designated positions within Salt Lake County that are subject to a background check. The list shall distinguish between those positions for which the County may request a background check, and those positions for which the candidate, employee, or volunteer must obtain their own background check.
- 1.4 “Bureau of Criminal Identification” or “BCI” means the Bureau of the Utah State Department of Public Safety charged with establishing a statewide crime reporting system.
- 1.5 “Candidate” means a person applying for a designated position.
- 1.6 “County” means Salt Lake County.

- 1.7 “Designated Position” means a position that the Human Resources Division, in consultation with the District Attorney and the relevant agency, has designated as being subject to a background check, and that is included on the background check list.
- 1.8 “District Attorney” means the Salt Lake County District Attorney’s Office.
- 1.9 “Employee” means all persons working for and compensated by Salt Lake County including temporary, probationary, merit and merit exempt employees as defined in Human Resources Policy and Procedure: Employment Status.
- 1.10 “Federal Bureau of Investigation” or “FBI” means the United States Federal Bureau of Investigation.
- 1.11 “Human Resources Division” or “Division” means the Salt Lake County Division of Human Resources.
- 1.12 “Notification and Waiver Form” means a form created by the Human Resources Division that is designed to notify a person that a background check is going to be performed, to identify the person(s) who will view the information, and to describe how the background check information will be used.
- 1.13 “Qualifying entity” means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:
- (a) national security interests;
  - (b) care, custody, or control of children;
  - (c) fiduciary trust over money;
  - (d) health care to children or vulnerable adults; or
  - (e) the provision of any of the following to a vulnerable adult:
    - 1. care;
    - 2. protection;
    - 3. food, shelter, or clothing;
    - 4. assistance with the activities of daily living; or
    - 5. assistance with financial resource management.
- See Utah Code Annotated § 53-10-102(19).
- 1.14 “Temporary Employee” means an “at will”, non-FLSA-exempt employee who is not eligible for County benefits and who may work no more than 1560 hours per calendar year.
- 1.15 “Volunteer” means any person who donates approved services, without pay and without remuneration other than approved incidental expenses, for those services rendered.
- 1.16 Vulnerable Adult means an elder adult or an adult who has temporary or permanent mental or physical impairment that substantially affects the person’s ability to:
- (a) provide personal protection;
  - (b) provide necessities such as food, shelter, clothing, or mental or other health care;
  - (c) obtain services necessary for health, safety, or welfare;
  - (d) carry out the activities of daily living;
  - (e) manage the adult’s own resources; or
  - (f) comprehend the nature and consequences of remaining in situations of abuse, neglect, or exploitation.
- 1.17 Fiduciary trust over money means actual control of a person’s money, where a person can invest or manipulate money/accounts for investments.

## 2.0 APPLICATION

This policy and procedure shall apply to all County agencies that do not have a current background check procedure in place consistent with federal, state, or local law.

## 3.0 PROCEDURE

### 3.1 Job Positions Subject to Background Investigation

3.1.1 The Human Resources Division, in consultation with the relevant agencies and the District Attorney's office, shall identify and maintain a current list of employment job classifications and volunteer functions that are subject to background checks.

3.1.2 The designated positions subject to a background check by the County and its agencies acting as a qualifying entity include positions that deal with the following, as permitted by Utah Code Annotated § 53-10-108(1)(g):

- 3.1.2.1 National security interests;
- 3.1.2.2 Care, custody, or control of children;
- 3.1.2.3 Fiduciary trust over money;
- 3.1.2.4 Health care to children or vulnerable adults.
- 3.1.2.5 The provision of any of the following to a vulnerable adult:
  - (1) protection
  - (2) food, shelter, or clothing
  - (3) assistance with the activities of daily living
  - (4) assistance with financial resource management.

3.1.3 If a position at the County does not qualify under statutory authority for a background investigation, the County may still require a background check for certain positions that deal with the following:

- 3.1.3.1 access to controlled substances;
- 3.1.3.2 provision of drug and alcohol services;
- 3.1.3.3 access to records that are classified as private, protected, or controlled under the Government Records Access and Management Act, Utah Code Annotated 63G-2-101 – 901, or access to records classified as confidential under another state or federal statute or regulation.

3.1.4 The Human Resources Division may add a position to the background check list at the time of recruitment, or at any time thereafter, after consulting with the relevant agency and the District Attorney. An agency may initiate the process to add a position to the background check list.

### 3.2 Types of Background Checks

A County agency may require one or more of the following types of background checks:

#### 3.2.1 Name/Date of Birth (DOB) Check

3.2.1.1 A name/DOB background check shall consist of a search of the following databases: (1) Utah Criminal History, (2) Utah Statewide

Warrant and Protective Order, and (3) Federal Want and Warrant files.

3.2.2 Fingerprint Verification Check

3.2.2.1 A fingerprint check shall consist of a search of the following databases: (1) the Western Identification Network, (2) Utah Criminal History, (3) Utah Statewide Warrant and Protective Order, and (4) Federal Want and Warrant files.

3.2.3 BCI Fingerprint/Federal Bureau of Investigation Check

3.2.3.1 A Federal Bureau of Investigation (FBI) check shall consist of a search of the following databases: (1) the Western Identification Network, (2) Utah Criminal History, (3) Utah Statewide Warrant and Protective Order, 4) Federal Want and Warrant, and (5) FBI criminal history files.

3.3 Background Check Process

3.3.1 Notification and Waiver Form

3.3.1.1 The Human Resources Division shall create and maintain a single Notification and Waiver Form for use by all County agencies subject to this policy and procedure.

3.3.1.2 The County must obtain a signed Notification and Waiver Form before initiating a background check on a candidate, employee, or volunteer. An employee that does not agree to submit to a background check may be subject to discipline under Salt Lake County Human Resources Policy and Procedure 5702, Standards of Conduct.

3.3.1.3 The County must obtain a signed Notification and Waiver Form for each check that it requests under this policy and procedure. The Notification and Waiver Form shall identify who will see the information, and describe how the information will be used.

3.3.1.4 The Human Resources Division shall provide any person subject to a background check an opportunity to: (1) review the information, and (2) respond to any information received. The right to review and respond to background check information shall be governed by state administrative rules. See Utah Administrative Code § R722-900-1 – 5.

3.3.1.5 The County may require that candidates, employees, and volunteers holding or applying for positions listed in sections 3.1.2.1 – 3.1.2.5 submit their own application for a background check as a condition of initial or continued employment. The candidate, employee, or volunteer shall grant to the County a right of access to the results of that background check by completing the appropriate paperwork supplied by BCI.

3.3.2 Name/Date of Birth (DOB) Check

- 3.3.2.1 County Agencies who have entered into a contract with the Bureau of Criminal Investigation (BCI) will be authorized to use Utah's Applicant Background Check System to complete a name/DOB background check.
  - 3.3.2.2 County agencies will be required to maintain a log of all name/DOB background checks completed on the background check system (see 4.0. Record Keeping).
  - 3.3.2.3 If a name/DOB background check reveals relevant, job related criminal history, the agency and Human Resources Division may, in consultation with the District Attorney, follow the procedure in subsection 3.4 for resolution, or require further background checks as provided for in subsection 3.2.
- 3.3.3 Fingerprint Verification Check
- 3.3.3.1 An agency shall refer a person subject to a fingerprint check to the Human Resources Division to complete a Notification and Waiver Form and have the fingerprints taken.
  - 3.3.3.2 The Human Resources Division shall forward the fingerprint card to BCI.
  - 3.3.3.3 Once BCI or another relevant entity returns the background check information to the Human Resource Division, it will be determined whether there is criminal history relevant to the position in question.
  - 3.3.3.4 If a fingerprint background check reveals relevant criminal history, the agency and Human Resources Division may, in consultation with the District Attorney, follow the procedure in subsection 3.4 for resolution, or request further background checks as provided for in subsection 3.3.
- 3.3.4 BCI Fingerprint/Federal Bureau of Investigation Check (FBI)
- 3.3.4.1 In order to request an FBI Check the agency shall follow the procedure set forth in subsection 3.3.3.
  - 3.3.4.2 If a Federal Bureau of Investigation check reveals relevant criminal history, the agency and Human Resources Division may, in consultation with the District Attorney, follow the procedure set forth in subsection 3.4.
- 3.4 Results of the Background Investigation
- 3.4.1 If a background check on a candidate reveals relevant, job related criminal history, the Human Resources Division shall notify the candidate, the agency and the District Attorney. The Human Resources Division, in consultation with the agency and the District Attorney, shall determine whether to eliminate the candidate from consideration for the position. The candidate may challenge the completeness and accuracy of criminal history record information by following the procedures established by BCI.
  - 3.4.2 If a background check on a current employee reveals relevant, job related

criminal history, the Human Resources Division shall notify the agency and the District Attorney. The Human Resources Division, the agency, and the District Attorney shall then determine whether the criminal conduct violated any state law, County ordinance, or County policies and procedures that would affect that person's standing as an employee with the County. The County shall grant the employee sufficient time to challenge the completeness and accuracy of the background check as provided by this policy and as provided by law.

- 3.4.3 If a background check on a volunteer reveals relevant, job related criminal history, the County shall grant the volunteer sufficient time to challenge the completeness and accuracy of the background check as provided by this policy and as provided by law.

3.4.3.1 If the criminal conduct affects a person's status as an employee; the County shall proceed with disciplinary action consistent with County policies and procedures. For volunteers where the criminal conduct affects a person's assignment, the volunteer will be released from their volunteer position.

#### 4.0 RECORD KEEPING

- 4.1 Agencies authorized to request name background checks as listed in section 3.3.2, shall submit a monthly log of all background checks conducted to the Human Resources Division. The Human Resources Division shall keep a log of all background checks that it requests from BCI on behalf of other agencies.
- 4.2 The Human Resources Division shall maintain, classify and retain all background check records in a separate file consistent with County wide policies and procedures.

APPROVED AND PASSED THIS 14<sup>TH</sup> DAY OF JULY, 2009