

53B-1-110 Criminal background checks of prospective and existing employees of higher education institutions -- Board to adopt policy.

- (1) As used in this section:
 - (a) "Institution" means an institution listed in Section 53B-1-102.
 - (b) "Minor" means a person younger than 21 years of age.
- (2) The board shall adopt a policy providing for criminal background checks of:
 - (a) prospective employees of institutions; and
 - (b) existing employees of institutions, where reasonable cause exists.
- (3)
 - (a) The policy shall require that:
 - (i) an applicant for any position that involves significant contact with minors or any position considered to be security sensitive by the board or its designee shall submit to a criminal background check as a condition of employment; and
 - (ii) an existing employee submit to a criminal background check, where reasonable cause exists.
 - (b) Subsection (3)(a)(i) does not apply to adjunct faculty positions.
 - (c) The policy may allow or require applicants for positions other than those described in Subsection (3)(a)(i) to submit to a criminal background check as a condition of employment.
 - (d) The policy may allow criminal background checks for new employees to be phased in over a two-year period.
- (4) The applicant or employee shall receive written notice that the background check has been requested.
- (5) Each applicant or employee subject to a criminal background check under this section shall, if required by the institution:
 - (a) be fingerprinted; and
 - (b) consent to a fingerprint background check by:
 - (i) the Utah Bureau of Criminal Identification; and
 - (ii) the Federal Bureau of Investigation.
- (6)
 - (a) Institutions may request the Utah Bureau of Criminal Identification to conduct criminal background checks of prospective employees and, where reasonable cause exists, existing employees pursuant to board policy.
 - (b) At the request of an institution, the Utah Bureau of Criminal Identification shall:
 - (i) release the individual's full record of criminal convictions to the administrator requesting the information; and
 - (ii) seek additional information from regional or national criminal data files in responding to inquiries under this section.
 - (c) Information received by the Utah Bureau of Criminal Identification from entities other than agencies or political subdivisions of the state may not be released to a private entity unless the release is permissible under applicable laws or regulations of the entity providing the information.
 - (d) Except as provided in Subsection (7), the institution shall pay the cost of background checks conducted by the Utah Bureau of Criminal Identification, and the money collected shall be credited to the Utah Bureau of Criminal Identification to offset its expenses.
- (7) The board may by policy require an applicant to pay the costs of a criminal background check as a condition of employment.
- (8) The applicant or employee shall have an opportunity to respond to any information received as a result of the criminal background check.

- (9) If a person is denied employment or is dismissed from employment because of information obtained through a criminal background check, the person shall receive written notice of the reasons for denial or dismissal and have an opportunity to respond to the reasons under procedures established by the board in policy.

Enacted by Chapter 248, 2007 General Session