



Policy Type: Required

Policy Title: Criminal Background Checks and Arrest Reporting

Effective: March 14, 2019

The purpose of this policy is to protect the safety, health, and security of Lakeview Academy students, employees, and property. This policy is intended to ensure that all students are instructed and served by public school teachers, employees, board members, and volunteers who have not performed acts or violated laws that could, or would, result in endangering students.

## Definitions

**Applicant, Candidate, or Potential Employee:** All persons seeking employment or appointment for compensatory work with Lakeview Academy.

**Licensed Educator:** Has the meaning given that term in Utah Administrative Code (UAC) R277-516.

**Employee:** A person being compensated by Lakeview Academy or a person employed by a company being compensated by Lakeview Academy for services rendered, including part-time and contract employees.

**BCI:** Utah Department of Public Safety, Bureau of Criminal Identification, a state agency.

**Board Member:** A person who serves on the Board of Trustees of Lakeview Academy.

**Crimes Against a Person:** Includes assault, kidnapping, murder, manslaughter, reckless endangerment, abuse of a child or vulnerable adult, stalking, hazing, making a terroristic threat, and any other offense identified in UCA Title 76, Chapter 5.

**Criminal History Report:** A report or record generated by the Bureau of Criminal Identification after a search of State of Utah criminal history files and/or other state and federal databases designated by law or by Lakeview.

**Driving Record Report:** Traffic-related offenses contained in the Utah Division of Motor Vehicle databases.

**Background Check or Background Investigation:** As allowed by law, a review of criminal or other public records to obtain information on an applicant or



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employee that may include, but is not limited to, criminal history reports and driving records reports.

**School:** Lakeview Academy, for whom this policy applies.

### **Individuals Subject to Background Checks**

Applicants (potential employees or candidates) must submit to a criminal background check and review as a condition of employment or appointment.

Volunteers with significant unsupervised access to students in connection with the volunteer's assignment must submit to a criminal background check as a condition of service. Until the background check is complete, the volunteer must remain under the supervised observation of a school employee.

A representative (individual, employee, and/or agent) of a company or organization having established an arrangement or agreement with the school to provide services to the school (such as food service vendors with casual access to students), or services with direct student access must submit to a criminal background check. The organization or representative shall pay the cost of the background check. Information obtained from the background check may be used as a basis to refuse access of the representative to the school, or students, at the sole discretion of the school. Failure to comply with this provision shall be basis for termination of the arrangement or agreement with the company or organization.

A background check shall be required for the renewal of any Utah educator license in accordance with UAC R277-501.

Members of the Board of Trustees must submit to a criminal background investigation as a condition of appointment.

Where reasonable cause exists, the school may require an existing employee or volunteer to submit to a criminal background check at any time.

### **Conducting the Background Check**

Applicants, board members, and volunteers shall complete applicable forms as a condition of employment/appointment. The forms require self-disclosure of criminal misconduct or violations of the law, including pending charges, diversion agreements and pleas in abeyance. The information obtained from the background check and the forms will be compared for accuracy and completeness. Any misstatement, omission, or misinformation on the forms is



grounds not to hire or for dismissal.



Employees, applicants, board members, or volunteers who decline to submit to a background check or who have criminal histories that put students or members of the school community at risk, as evidenced in the results of a background check, and/or fail to report a citation, arrest, charge, or conviction as outlined in this policy cannot be employed by the school, are subject to termination of employment, revocation of volunteering privileges and/or will not be offered employment or appointment to the Board of Trustees.

A criminal conviction does not necessarily preclude employment or volunteering activities with the school. The school has the sole and absolute discretion to determine whether the outcome of a criminal background check will result in administrative action to include the decision to terminate employment, the decision not to hire, or the decision not to authorize volunteering activities by an individual. Similarly, the dismissal of a criminal offense or arrest does not necessarily preclude the school from taking administrative action against an employee, board member, or volunteer.

The school will immediately suspend an employee, board member, or volunteer from student supervision responsibilities pending the outcome of any investigation upon receipt of information concerning alleged offenses. Suspensions are generally without pay.

### **Review and Investigation**

The school may consider both criminal and/or administrative findings. The safety and security of students will be the foremost consideration. The school shall consider each circumstance on a case-by-case basis and use the following factors to determine an applicant's, current employee's, board member's or volunteer's suitability to work in the school.

1. Type of conviction;
2. Relevance of any conviction to the individual's position;
3. A history of multiple convictions that suggests a pattern of criminal behavior or bad judgment;
4. Amount of time that has passed since a conviction and/or the completion of a sentence;
5. Frequency and severity of the conviction(s) or disposition(s);
6. Age of the individual at the time of the conviction or disposition;
7. Evidence of rehabilitation.
8. Other aggravating or mitigating information.

Any statement of an applicant, employee, board member, or volunteer on applications, personnel records, forms, and documents submitted to the school that is later deemed to be a misstatement, omission, or misinformation when verified with the results of a background check is grounds not to hire, for





dismissal, or revocation of volunteering privileges.

If a person is denied employment/appointment to the Board of Trustees or is dismissed from employment/appointment to the Board of Trustees because of information obtained through a criminal background check, the person will receive written notice of the reasons for denial or dismissal and have an opportunity to respond within five working days. Volunteers who are denied volunteering privileges, or who have volunteering privileges revoked, will receive verbal notice of the decision and written notice upon request.

Information obtained from BCI in a background check is confidential within the guidelines of the Government Records and Access and Management Act (GRAMA).

### **Payment for Background Check**

Applicants for employment, including substitutes, shall be required to pay the designated cost of background checks subject to the provisions of UCA § 53G-11-401 through 405. The school shall pay the cost of the background check for any non-licensed employee or board member. Volunteers shall be required to pay the designated cost of a background check required for approval of volunteering activities. The Director may reimburse fees associated with background checks at the Director's discretion.

### **Required Reporting of Arrest**

A licensed educator (as defined in UCA 53G-11-301), any and all other employees, and volunteers of the School (as defined in R277-516-4) who are cited, charged and/or arrested with the following alleged offenses must report the incident(s) as soon as possible, within 48 hours, using the *Educator Notification of Arrest* form provided on the Utah State Board of Education (USBE) website, to the school Director:

1. any matters involving an alleged felony, or relevant misdemeanor offenses;
2. any matters involving minors;
3. any matters involving alleged sex offenses;
4. any matters involving alleged drug-related offenses;
5. any matters involving alleged alcohol-related offenses;
6. any matters for which the subject is currently under court ordered probation; and/or
7. any matters involving alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

The employee, board member, or volunteer shall report to the school Director, any convictions, including convictions identified above, any pleas in abeyance, and any diversion agreements as soon as possible, within 48 hours, upon receipt of notice of conviction, plea in abeyance, or diversion agreement using the

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*Educator Notification of Arrest* form provided on the USBE website.

The Director shall report arrest, conviction, or offense information to the Board of Trustees as legally allowed by law, on all employees, board members, and volunteers.

The Director shall also report arrest, conviction, or offense information received from **Licensed Educators** to the Educator Licensing Department of the Utah State Office of Education (USBE or Utah Professional Practices Advisory Commission (UPPAC)) within 48 hours through forms found on the USBE website (UPPAC page of the Educator Licensing Department).

The employee shall report for work following an arrest and notice to the Director unless directed not to report for work by administration. Volunteers may report for volunteering activities following an arrest and notice to the Director unless directed not to report for volunteering activities by administration.

The school shall suspend employees immediately under the following circumstances:

1. Employees shall be suspended from supervising students during investigations for alleged sex offenses and other alleged offenses which may endanger students.
2. Employees who transport students or who operate or maintain public education vehicles shall be suspended during investigations of allegations for alcohol or drug violations.

The school shall provide due process for individuals who complete required criminal background checks consistent with UCA §53G-11-405. The procedures include:

1. An individual's right to respond to any criminal history information received by the school;
2. An individual's right to request a review of information received and the reasons for disqualification from employment or release from employment; and
3. Notice to the individual of the right to request a review of information and reasons for disqualification or release for/from employment.



The school shall maintain background check information securely and train all employees who have access to background check and employment information about their professional responsibility to treat all records and information confidentially and the potential consequences for such failure.

The school may take employment or disciplinary action (up to and including dismissal), refuse to consider an applicant for employment, or refuse to hire a selected applicant for any offense relevant to the applicant's assignment, refuse appointment to or dismiss a current member of the Board of Trustees, or refuse to grant volunteering privileges to volunteers. Offenses relevant to all school assignments include, but are not limited to, the following:

1. Any matters involving an alleged felony, or relevant misdemeanor offenses;
2. Any matters involving minors;
3. Any matters involving alleged sex offenses;
4. Any matters involving alleged drug-related offenses;
5. Any matters involving alleged alcohol-related offenses;
6. Any matters for which the subject is currently under court ordered probation; and
7. Any matters involving alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.

### **Additional References**

1. Utah Code Annotated (UCA) § 53G-11-405 - Due process related to background check information
2. UCA § 53G-5-407 and 408 - Criminal Background Checks on School Personnel
3. UCA § 53E-3-410 - Criminal Background Checks on School Personnel
4. UCA § 53E-6-401 and 402 - Background Checks
5. Utah Administrative Code (UAC) R277-501 - Educator Licensing Renewal and Timelines
6. UAC R277-481 - Charter School Oversight, Monitoring and Appeals
7. UAC R277-516 - Education Employee Required Reports of Arrests

### **Certification**

The undersigned officers and/or directors of Lakeview Academy certify that this Criminal Background Checks and Arrest Reporting policy was duly adopted on



March 14, 2019 and replaces all previous Criminal and Background Check and Arrest Reporting policies.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_