

University Rule 5-130 B: Criminal and Other Background Checks for University Staff

I. Purpose and Scope

- A. Purpose: To implement University Policy 5-130 (Policy on Criminal and Other Background Checks) for University staff by describing the scope of staff positions subject to background checks, the type of criminal and other background checks the University may use, and the related decision making processes.
- B. This Rule applies to University staff positions with a hire, rehire, or transfer date on or after May 1, 2009. This Rule does not apply for faculty and academic staff positions, which are regulated by separate rule (Rule 5-130A)

II. Definitions

- A. Definitions of terms provided in University Policy 5-130 apply for purposes of this Rule.
- B. The Human Resources Consultant referred to in this Rule is the Human Resources staff member or designee assigned by HR to the department to provide HR consulting services.

III. Rule

- A. Staff positions requiring a Criminal Background Check (CBC):
 - 1. Benefited Staff Positions (.50 FTE or greater, Regular).
 - 2. Non-Benefited Staff Positions including Temporary and Part-Time positions (any FTE) that are classified as:
 - a. Security Sensitive as defined by Utah Board of Regents Rule R847-3, 3.9
 - b. Involving Significant Contact with minors under 21 as defined by Utah Board of Regents Rule R847-3, 3-10.
 - 3. Division/Department Designation
 - a. A Division, Department or sub-unit, in consultation with the HR Consultant, may determine that ALL positions require a Criminal Background Check to meet State or Federal Regulations, the provisions of Regents Rule R847, departmental standards, or for other business related reasons. The Division/Department or subunit must uniformly apply all requirements for a CBC.

B. Staff employment actions which initiate a CBC:

1. New Hires

- a. All new hires with a Hire Date of 5-1-09 or later are subject to a pre-employment CBC in accordance with the position requirements as outlined above.

2. Rehires

- a. All rehires with a Rehire Date of 5-1-09 or later are subject to a pre-employment CBC in accordance with the position requirements as outlined above.

- b. EXCEPTION: If a CBC was conducted by the University of Utah (for example, in connection with previous employment with University Hospital) within the preceding 12 months of the Rehire Date, the CBC requirement is waived.

3. Transfers (Promotion, Lateral, Demotion) including Campus to Campus, Hospital to Campus, and Campus to Hospital

a. Hiring departments are required to initiate a CBC on any employees transferring into positions designated as requiring a CBC, provided the University has not previously completed a CBC on the employee. The promotion, lateral transfer, or demotion to a position requiring a CBC is contingent on satisfactory completion of the CBC.

4. FTE Increases

a. An increase in an employee's FTE which results in a change from non-benefited to benefited status will require the department to initiate a CBC, provided the University has not previously completed a CBC on the employee. The FTE increase which necessitates a CBC is contingent on satisfactory completion of the CBC.

C. Reasonable Cause provision

The University may conduct background checks for existing staff members if a determination is made that there is reasonable cause to believe the staff member poses a threat or has committed a crime.

D. Criminal Background Check (CBC) packages

1. The University's standard Campus CBC package is a domestic United States search of Credit Bureau and other records to determine counties of residence for the previous seven years. Up to three aliases are checked, and any felony and misdemeanor convictions are reported. The standard Campus CBC package also includes a check of the Sex Offender Registry.
2. As determined by the hiring department in consultation with Human Resources, more extensive CBC packages may be appropriate. Additional elements that may be included in

a customized package include: employment, education, or professional license verification; Fraud and Abuse Control Information System (FACIS); Office of Inspector General (OIG) Medicare Fraud Exclusion List, Excluded Parties List System (EPLS), Motor Vehicle Report, Credit Report and/or other elements.

E. Criminal Background Check (CBC) adjudication

1. If a background check reveals a criminal background, which may or may not have been disclosed by the applicant or employee, University Human Resources initiates a consultative process to evaluate and adjudicate the CBC, in accordance with University Policy 5-130 and the Fair Credit Reporting Act.

An initial review of CBC results is conducted by the Human Resources Consultant or designee to identify any felony or misdemeanor convictions. If the CBC results contain no convictions, with the exception of minor motor vehicle related violations, Human Resources will clear the individual for hire and notify the hiring manager. In the event a CBC report includes felony or misdemeanor convictions which were not self disclosed by the individual, the individual will generally not be cleared for hire due to falsification.

In the event there is a discrepancy between what the individual self disclosed and what was reported on the CBC, the Human Resources Consultant may confer with the individual and/or the hiring manager as appropriate before adjudicating the CBC. In the event serious misdemeanor or felony conviction(s) are reported, and a consensus has not been reached in the initial conference with the hiring manager, the Human Resources Consultant may engage a representative of the Office of General Council and/or the department's Cognizant Vice-President or designee in the evaluation. In a consultative role, the Human Resources Consultant will facilitate an assessment of the overall risk posed to persons and property, and 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. The risk assessment will include:

- a. the number of crimes committed;
- b. the severity of those crimes;
- c. the length of time since they were committed;
- d. the likelihood of recidivism;

- e. the security sensitivity of the position sought by the applicant or held by the existing employee; and
- f. other factors that may be relevant.

F. Costs. The University will not require applicants or existing employees to pay the costs of a criminal or other background check as a condition of employment.

IV. References:

- A. [University Policy 5-130 \(/human-resources/5-130.php\)](/human-resources/5-130.php)
- B. [University Rule 5-130A \(/human-resources/rules/rule_5-130A.php\)](/human-resources/rules/rule_5-130A.php) (Faculty and Academic Staff)
- C. [Utah Board of Regents Rule R847-3, 3.9 \(http://higheredutah.org/sbr/policy/pdf/R847.pdf\)](http://higheredutah.org/sbr/policy/pdf/R847.pdf)
- D. Office of Inspector General <http://oig.hhs.gov/>
- E. Excluded Parties List System <https://www.epls.gov/>

V. Contacts:

Policy officer:

Vice President for Human Resources

Policy Owner:

Human Resources, Director of Employment Services,

VI. History:

Current version: Revision 1

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Earlier versions :

[Revision 0 \(/human-resources/rules/revisions/R5-130B.R0.pdf\)](/human-resources/rules/revisions/R5-130B.R0.pdf)

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