

DESCRIPTOR TERM: Personnel and Employment	Millard District Policy File Code: 4030 Approved: 11-10-22
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CRIMINAL BACKGROUND CHECK
AND EMPLOYEE REPORTING OF ARRESTS

Purpose

The purpose of this policy is to ensure that employees and volunteers of the Millard School District receive background checks in compliance with the law.

A. Definitions:

1. **Background Check:** Information on an applicant, employee, or volunteer that may include, but is not limited to, criminal history reports and driving records reports.
2. **Criminal History Report:** A report generated by the Bureau of Criminal Identification after a search of state and federal criminal history databases has been completed.
3. **Driving Record Report:** A report of traffic-related offenses contained in the Utah Division of Motor Vehicle databases.
4. **Licensed Employee:** A “licensed employee” is one who holds a current Utah educator license issued by the State Board of Education.
5. **Non-licensed Employee:** A “non-licensed employee” is one who does not hold a current Utah educator license issued by the State Board of Education.
6. **Qualifying Volunteer:** A “qualifying volunteer” is a volunteer who will be given significant unsupervised access to a student in connection with the volunteer’s assignment. For purposes of this policy, “qualifying volunteer” does not include an officer or employee of a cooperating employer which has an internship safety agreement with the District.
7. **Personal Identifying Information:** means an individual’s current name, former names, nicknames and aliases; date of birth; address; telephone number; driver license number or other government-issued identification number; Social Security number; and fingerprints.

[Utah Code § 53G-11-401\(3\), \(6\), \(7\) \(2019\)](#)

[Utah Code § 53G-11-402\(1\)\(a\)\(iii\) \(2020\)](#)

[Utah Admin. Rules R277-316-2\(5\), \(8\), \(9\), \(11\) \(February 7, 2020\)](#)

B. Application Notice and Waiver Regarding Background Checks—

At the time a prospective employee or qualifying volunteer applies for employment or service with the district, such prospective employee or qualifying volunteer shall fill out an application providing the following warning:

“All references stated in this application will be checked by the school district and it is the policy of this school district that false information will be grounds for rejecting your application with no further consideration for the position; or, if such false information is discovered after hire, you will be subject to immediate termination for cause. Any false information may also be the grounds for criminal prosecution.”

All employees, qualifying volunteers, and contract employees seeking employment with the district or service in a district school shall sign a written consent, release, waiver, and authorization which authorize the district to request information from the individual's past employers and supervisors. The consent, release, waiver, and authorization shall also authorize the district to contact any applicable licensing agency and former employers to obtain a background check, including a reference check, and to conduct a background search into the employee's criminal record, if any, or any other background check as the district deems necessary to satisfy itself of the quality and competence of the individual's credentials including submitting personal identifying information to the Bureau of Criminal Identification within the Department of Public Safety and retaining the personal identifying information for ongoing monitoring.

[Utah Code § 53G-11-402\(1\)\(a\) \(2020\)](#)

[Utah Code § 53-10-108\(13\)\(b\)\(ii\) \(2022\)](#)

C. Criminal Background Check and Monitoring for Licensed Employees—

1. All persons seeking a licensed employee position with the district shall provide their educator licensing information with their application for employment.
2. Prior to employing an individual as a licensed employee, the district shall confirm the individual's license status and standing with the state board of education, including inquiring regarding any prior or pending disciplinary actions or complaints.
3. Upon employing an individual as a licensed employee, the district shall request that the state board of education provide notification to the district of any changes or updates received by the state board through its ongoing monitoring of the individual's criminal history and background.

D. Criminal Background Check for Non-Licensed Employees and Volunteers—

1. All non-licensed employees, qualifying volunteers, and contract employees seeking employment with the district or service in a district school shall provide their personal identifying information with their application. “Non-licensed

employees” includes substitute teachers who are not licensed by the Utah State Board of Education.

[Utah Code § 53G-11-402\(1\)\(b\) \(2020\)](#)

[Utah Code § 53E-6-901\(2\) \(2018\)](#)

2. The district shall obtain consent from each applicant seeking employment as a non-licensed employee or service as a qualifying volunteer or contract employee for (1) an initial fingerprint-based background check by the FBI and Bureau of Criminal Identification and (2) the retention of personal identifying information and ongoing monitoring by the Bureau of Criminal Identification.

[Utah Code § 53G-11-402\(1\)\(b\)\(iii\) \(2020\)](#)

3. Prior to employing a non-licensed employee or permitting a contract employee to provide service in a district school, the district shall require the individual to undergo a background check. The district shall submit the individual’s personal identifying information, including fingerprints, to the Bureau of Criminal Identification for this background check.

[Utah Code § 53G-11-402\(1\)\(a\), \(c\) \(2020\)](#)

[Utah Admin. Rules R277-316-3\(1\)\(a\) \(February 7, 2020\)](#)

4. Upon employing a non-licensed employee or permitting a contract employee or qualifying volunteer to provide service in a District school, the District shall request ongoing monitoring of the individual through the Bureau of Criminal Identification unless the individual is younger than 18 years old.

[Utah Code § 53G-11-402\(1\)\(c\)\(ii\) \(2020\)](#)

[Utah Admin. Rules R277-316-3\(1\)\(a\) \(February 7, 2020\)](#)

5. In the discretion of the Superintendent or the Superintendent’s appointee, if the employment or service is to be temporary or for a very short term, the non-licensed employee, contract employee, or qualifying volunteer may be exempted from ongoing monitoring.

[Utah Code § 53G-11-402\(5\) \(2020\)](#)

6. Volunteers with significant unsupervised access to a student 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 district employee.
7. A representative (individual, employee, and/or agent) of a company or an organization having established an arrangement or agreement with the district 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 district conducted criminal background check. The organization or representative shall pay the cost of the background check. The arrangement of the organization or company shall include a provision for the district to require the representative to sign a release enabling the district to perform the check.

8. Information obtained from the check may be used as a basis to refuse access of the representative to the school, district, or student, at the sole discretion of the district. Failure to comply with this provision shall be basis for termination of the arrangement or agreement with the company or organization.
9. Where reasonable cause exists, the district may require an existing employee or volunteer to submit to a criminal background check.

E. Use of Criminal History and Background Check Information—

1. In making decisions in reliance on criminal history information, the district shall consider rules established by the state board of education and
 - a. any convictions, including pleas in abeyance;
 - a. any matters involving a felony; and
 - b. any matters involving an alleged:
 - (i) sexual offense;
 - (ii) class A misdemeanor drug offense;
 - (iii) offense against the person under Title 76, Chapter 5, Offenses Against the Person;
 - (iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and
 - (v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

[Utah Code § 53G-11-405\(3\) \(2022\)](#)

[Utah Code § 53G-11-402\(4\) \(2020\)](#)

2. Information obtained pursuant to a criminal background check is confidential and may only be disclosed as provided herein.

F. Due Process

1. If the district disqualifies an applicant as a result of criminal history obtained from a background check, the district shall give the individual written notice of the disqualification and of the individual's right to request a review of the disqualification.

[Utah Code § 53G-11-405\(1\)\(c\) \(2022\)](#)

2. An individual disqualified by the district as a result of a background check may request a review of the information received by the district through the background check and of the reasons for the disqualification and may respond to the information and the reasons for disqualification. The district shall, consistent

with the requirements of [Utah Code § 53-10-108](#), allow the individual to review the criminal history information received by the district.

[Utah Code § 53G-11-405\(1\)\(a\), \(b\) \(2022\)](#)

G. Privacy Risk Mitigation: Discontinuing Monitoring—

1. Upon termination of district employment of a licensed employee (whether by retirement, resignation, termination with or without cause, non-renewal, or any other reason), the district shall by written notice to the Utah State Board of Education request that the state board cease to notify the district of information received by the state board through its ongoing monitoring of the individual's criminal history and background.

[Utah Code § 53G-11-402\(1\)\(d\) \(2020\)](#)

[Utah Code § 53-10-108\(13\)\(b\)\(iii\) \(2022\)](#)

2. Upon termination of district employment or service of a non-licensed employee, contract employee, or qualifying volunteer (whether by retirement, resignation, termination with or without cause, non-renewal, or any other reason), the district shall by written notice to the Bureau of Criminal Identification request that the Bureau discontinue its ongoing monitoring of the individual's criminal history and background and notices to the district regarding changes to criminal history and background.

[Utah Code § 53G-11-402\(1\)\(d\) \(2020\)](#)

[Utah Code § 53-10-108\(13\)\(b\)\(iii\) \(2022\)](#)

H. Required Reporting of Arrest by Licensed Educators:

1. A licensed educator who is arrested for the following alleged offenses shall report the arrest as soon as possible, or within forty-eight hours, to the superintendent or his/her designee:
 - a. Any matters involving arrests for alleged sex offenses;
 - b. Any matters involving arrests for alleged drug-related offenses;
 - c. Any matters involving arrests for alleged alcohol-related offenses; and
 - d. Any matters involving arrests for alleged offenses against the person under Title 76, Chapter 5, Offenses Against the Person.
 - e. Any matters involving an alleged felony offense under Title 76, chapter 6, Offenses Against Property.
 - f. Any matters involving an alleged domestic violence under Title 77, Chapter 36, Cohabitant Abuse Procedures Act)
 - g. Any matters involving alleged crime under federal law or the laws of another state comparable to the violations listed in Subsections "a" through "f".
2. A licensed educator shall report convictions, including pleas in abeyance and diversion agreements within 48 hours or as soon as possible upon receipt of notice of the conviction, pleas in abeyance, or diversion agreement.

3. The principal or supervisor shall report offense information received from the licensed educator immediately to the superintendent or his/her designee at the district office.
4. The superintendent or his/her designee shall electronically report any arrest or offense information received from licensed educators to the Utah State Board of Education (USBE) within forty-eight hours of notification.
5. Millard School District shall cooperate with the USBE in investigations of licensed educators.
6. The licensed educator shall report for work following the arrest and notice to the principal/supervisor unless directed otherwise by district personnel.

I. Required Reporting of Arrest by Classified Employees/Volunteers

1. Classified employees and volunteers must notify their principal or immediate supervisor as soon as possible, but no later than five business days after the arrest, conviction, plea in abeyance, or diversion agreement for any of the following crimes, regardless of the imposition of sentence:
 - a. Any convictions, including pleas in abeyance and diversion agreements;
 - b. Any matters involving arrests for alleged sex offenses;
 - c. Any matters involving arrests for alleged drug-related offenses;
 - d. Any matters involving arrests for alleged alcohol-related offenses; and;
 - e. Any matters involving arrests for alleged offenses against the person (see Title 76, Chapter 5, Offenses Against the person).
2. The principal or supervisor shall report offense information received from the classified employee or volunteer immediately to the superintendent or his/her designee at the district office.
3. Employees will be subject to immediate suspension from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation;
4. Employees will be subject to immediate suspension from transporting students or public education vehicle operation or maintenance for alleged offenses involving alcohol or drugs during the period of investigation;

J. Review and Investigation

1. A criminal conviction does not necessarily preclude employment with the district. The district has the sole and absolute discretion to determine whether the outcome of a criminal background check or driving record check is satisfactory. The safety and security of district students will be the foremost consideration. The superintendent or his/her designee consider each circumstance on a case-by-case basis and use the following factors to determine an applicant, volunteer or current employee's suitability for work in the district.

- a. Type of conviction;
 - b. Relevance of any conviction to the individual's position;
 - c. A history of multiple convictions that suggests a pattern of criminal behavior or bad judgment;
 - d. Amount of time that has passed since a conviction and/or the completion of a sentence;
 - e. Frequency and severity of the crime(s);
 - f. Age of the individual at the time the crime was committed; and/or
 - g. Evidence of rehabilitation.
2. The superintendent or his/her designee, in cooperation with the principal and/or supervisor of a licensed educator shall:
 - a. Review arrest information and assess the employment status consistent with district policy and Utah Code Ann. [§53A-6-501](#), Utah Administrative Code R277-515; and
 - b. Make employment decisions that protect both the safety of students and the confidentiality and due process rights of the employee.
 3. The superintendent or his/her designee, in cooperation with the classified employee's principal and/or supervisor shall:
 - a. Review arrest information and assess the employment status considering the classified employee's assignment; and
 - b. Make employment decisions that protect both the safety of students and the confidentiality and due process rights of the employee, consistent with district policy for the ethical behavior of classified employees.

K. Administrative Action and Due Process

1. Applicants, including volunteers, are subject to non-selection based on the results of a background check, for refusal to submit to a background check, and/or for the failure to disclose information relevant to the background check during the application and selection process.
2. Employees are subject to discipline, up to and including termination, based on the results of their background checks, for refusal to submit to a background check, and/or for failure to report arrests and convictions as outlined in this policy.
3. The district will immediately suspend an employee from student supervision responsibilities upon receipt of information concerning alleged offenses which may endanger students or interfere with the orderly operation of the school, pending the outcome of any investigation.
4. The district may take employment or disciplinary action (up to and including dismissal), refuse to consider an applicant/volunteer for employment, or refuse to hire a selected applicant for any offense relevant to the subject's assignment.

Offenses relevant to all district assignments include but are not limited to the following:

- a. Any offense against or pertaining to a minor;
 - b. Any matters involving sex offenses;
 - c. Any matters involving drug-related offenses;
 - d. Any matters involving alcohol-related offenses;
 - e. Any matters involving arrests for alleged offenses against the person (see Title 76, Chapter 5, Offenses Against the person); or
 - f. Any matters for which the subject is currently under court ordered probation.
5. Any statement of an employee or applicant/volunteer on the Millard School District Supplemental Questionnaire (see attachment) that is later deemed to be a misstatement, omission, or misinformation when verified with the results of a background check is grounds for non-hiring and/or dismissal.
 6. If a person is denied employment or is dismissed from employment 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.
 7. Information obtained from the Bureau of Criminal Identification (BCI) in a background check is confidential within the guidelines of the Government Records Access and Management Act (GRAMA).

L. Professional Development

The local school board shall provide appropriate training to all district employees and volunteers concerning the provisions set forth in this policy. Special emphasis shall be placed on the self-reporting and ethical behavior expectations of all public employees.

MILLARD SCHOOL DISTRICT SUPPLEMENTAL QUESTIONNAIRE

NOTE: It is important that you give complete and truthful answers to the following questions. If you answer "YES" to any of them, please provide your explanation(s) on a separate sheet of paper. Include convictions resulting from a plea of nolo contendere (no contest), and information about any expungement.

Omit: Traffic fines of \$100.00 or less

We will consider the date, facts, and circumstances of each event you list. In most cases, you can still be considered for District employment. However, if you fail to tell the truth or fail to list all relevant events or circumstances, this may be grounds for not hiring you, or grounds for dismissal after you begin work.

	YES	NO
1. During the last 10 years, have you been fired from any job for any reason, did you quit after being told that you would be fired, or did you leave by mutual agreement because of specific problems?		
2. Have you even been arrested for, convicted of, or forfeited collateral for any felony or misdemeanor violation? ..		
3. Have you ever been arrested for, convicted of, or forfeited collateral for any firearms or explosives violation? ...		
4. Are you now under investigation for misconduct or any violation of law?		
5. Have you ever been convicted by a military court-martial?		
6. Have you been found pursuant to a criminal, civil or administrative action to have committed a sexual offense against a minor child or had any substantiated child abuse charges filed against you?		
7. Have you voluntarily resigned or surrendered a professional license or certificate in the face of a charge relating to incidents in items 1-6 above?		
8. Are you now under investigation, on notice of warning, or under probation for any concern related to your employment, maintaining a license, or professional certificate?		
9. Are you fluent in speaking, reading, comprehending, and writing English?		
10. Have you ever worked for a school district in the State of Utah?		
If so, where? _____		
11. Does the District employ any relative(s) of yours, either by blood or marriage? If "YES", please list each one by name, school, and relationship.		

1) Relative(s)Name _____ Relationship _____
 School/Location _____ Position _____

2) Relative(s)Name _____ Relationship _____
 School/Location _____ Position _____

(If more space is needed, please attach information on a separate sheet of paper)

I hereby verify that the information provided in this Supplemental Questionnaire is true and correct to the best of my knowledge. Any misstatement, omission, or misinformation is grounds to not hire or for dismissal. If hired, I hereby agree to abide by the policies of the Millard School District. I understand that before I am hired, a Criminal Background Check will be required, and I will be responsible to pay the fee.

I authorize the release of information in connection with this application by former employees and supervisors. I agree to indemnify and hold harmless former employers and supervisors from any action in conjunction with their release of information with regard to these inquiries.

Applicant's Signature _____ Date _____

It is the policy of the Millard School District Board of Education to fill each vacancy and newly created position(s) with the most qualified person available. Qualifications will be based upon the necessary education, certification, skill, knowledge and competencies required for the position. Positions will be filled without regard to race, color, political affiliation, religion, sex, national origin, age, marital status, medical condition, or disability.

**Millard School District
Disclosure and Consent for Employment / Reference Checks
and Release of Liability (Licensed)**

I understand that previous employment and my submitted references may be checked by the District. I affirm by my signature that (1) I have disclosed the employer for every prior paid position I have held where my job responsibilities included directly caring for, supervising, controlling, or having custody of anyone under 18 years of age; (2) I consent to past and present employer(s) and references disclosing to the District any and all information, including disciplinary records, which may be pertinent to my employment, and that such information includes, but is not limited to, all information relating to any employment action or discipline imposed for abuse of any child or student; (3) I understand that if I am hired, any information obtained or maintained by the District may be disclosed to any future subsequent potential employer of mine who contacts the District for any employment or reference check.

I hereby waive any right to see any written material(s) submitted to the District in response to the above inquiries or notes of oral communication relative to such inquiries. I understand that if I am hired by the District any information received in response to the above inquiries is placed in my personnel file, and I may be denied the right to inspect such material(s).

By signing below, I agree to release the District from any action for damages relating to the District's refusal to hire me as a result of information obtained during a reference or background check. I agree to release the District from any action for damages relating to information disclosed by the District to any future subsequent potential employer of mine who contacts the District for an employment or reference check.

I understand that providing false information to the District as part of the application process will be grounds for rejecting an application with no further consideration for the position; or, if such false information is discovered after hire, I will be subject to immediate termination for cause. Any false information may also be the grounds for criminal prosecution. I agree to release the District from any cause of action for damages as a result of the District's termination of my employment as a result of falsifying any information included in this application.

Signature _____ Date _____

**Millard School District
Disclosure and Consent for Employment / Reference Checks
and Release of Liability (Non-Licensed)**

I understand and acknowledge that: (1) in considering my application for employment, Millard School District ("the District") is legally required to obtain a nationwide (FBI) criminal background check and (if I am hired) ongoing criminal history monitoring while I work for the District; (2) information provided to the District (including fingerprints) will be used for this purpose; (3) the background check process must meet the requirements of Utah Code §53-10-108(4); (4) procedures for obtaining a change, correction, or updating your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16:34; (5) I have received (on the fingerprint card form) the FBI Privacy Act Statement and have received the FBI Noncriminal Justice Applicant's Privacy Rights; (6) the background check results will be used to decide whether to employ me and will only be provided to those investigating or involved in the hiring process; (7) I may obtain my criminal history information from the Utah Bureau of Criminal Identification; (8) if my application is rejected based on criminal background information I will be given written notice of the disqualifying reasons and of the right to request review of the disqualification; and (9) the District will establish procedures to ensure removal of my fingerprints from applicable state and federal databases when I am no longer under their purview. My signature affirms this acknowledgment and my consent to the District obtaining the initial check and ongoing monitoring while I work for the District.

I understand that previous employment and my submitted references may be checked by the District. I affirm by my signature that (1) I have disclosed the employer for every prior paid position I have held where my job responsibilities included directly caring for, supervising, controlling, or having custody of anyone under 18 years of age; (2) I consent to past and present employer(s) and references disclosing to the District any and all information, including disciplinary records, which may be pertinent to my employment, and that such information includes, but is not limited to, all information relating to any employment action or discipline imposed for abuse of any child or student; (3) I understand that if I am hired, any information obtained or maintained by the District **except for** criminal background check information may be disclosed to any future subsequent potential employer of mine who contacts the District for any employment or reference check.

I hereby waive any right to see any written material(s) submitted to the District in response to the above inquiries or notes of oral communication relative to such inquiries, **except** criminal background information, which I may obtain from the Bureau of Criminal Identification. I understand that if I am hired by the District any information received in response to the above inquiries is placed in my personnel file, and I may be denied the right to inspect such material(s).

By signing below, I agree to release the District from any action for damages relating to the District's refusal to hire me as a result of information obtained during a reference or background check. I agree to release the District from any action for damages relating to information disclosed by the District to any future subsequent potential employer of mine who contacts the District for an employment or reference check.

I understand that providing false information to the District as part of the application process will be grounds for rejecting an application with no further consideration for the position; or, if such false information is discovered after hire, I will be subject to immediate termination for cause. Any false information may also be the grounds for criminal prosecution. I agree to release the District from any cause of action for damages as a result of the District's termination of my employment as a result of falsifying any information included in this application.

Signature _____ Date _____

**Millard School District
Disclosure and Consent for Employment / Reference Checks
and Release of Liability (Volunteer)**

I understand and acknowledge that: (1) in considering my application to volunteer, Millard School District ("the District") is legally required to obtain a nationwide (FBI) criminal background check and (if I am given certain assignments) ongoing criminal history monitoring while I serve in the District; (2) information provided to the District (including fingerprints) will be used for this purpose; (3) the background check process must meet the requirements of Utah Code §53-10-108(4); (4) procedures for obtaining a change, correction, or updating your criminal history record are set forth at Title 28, Code of Federal Regulations (CFR), Section 16:34; (5) I have received (on the fingerprint card form) the FBI Privacy Act Statement and have received the FBI Noncriminal Justice Applicant's Privacy Rights; (6) the background check results will be used to decide whether to give me certain assignments and will only be provided to those investigating or involved in the assignment process; (7) I may obtain my criminal history information from the Utah Bureau of Criminal Identification; (8) if my application is rejected based on criminal background information I will be given written notice of the disqualifying reasons and of the right to request review of the disqualification; and (9) the District will establish procedures to ensure removal of my fingerprints from applicable state and federal databases when I am no longer under their purview. My signature affirms this acknowledgment and my consent to the District obtaining the initial check and ongoing monitoring while I serve in the District.

I understand that previous employment and my submitted references may be checked by the District. I affirm by my signature that (1) I have disclosed the employer for every prior paid position I have held where my job responsibilities included directly caring for, supervising, controlling, or having custody of anyone under 18 years of age; (2) I consent to past and present employer(s) and references disclosing to the District any and all information, including disciplinary records, which may be pertinent to my employment, and that such information includes, but is not limited to, all information relating to any employment action or discipline imposed for abuse of any child or student.

I hereby waive any right to see any written material(s) submitted to the District in response to the above inquiries or notes of oral communication relative to such inquiries, **except** criminal background information, which I may obtain from the Bureau of Criminal Identification. I understand that if I am accepted by the District any information received in response to the above inquiries is placed in my service file, and I may be denied the right to inspect such material(s).

By signing below, I agree to release the District from any action for damages relating to the District's refusal to accept me as a result of information obtained during a reference or background check. I agree to release the District from any action for damages relating to information disclosed by the District to any future subsequent potential employer of mine who contacts the District for an employment or reference check.

I understand that providing false information to the District as part of the application process will be grounds for rejecting an application with no further consideration for the position; or, if such false information is discovered after hire, I will be subject to immediate dismissal. Any false information may also be the grounds for criminal prosecution. I agree to release the District from any cause of action for damages as a result of the District's dismissing me as a result of falsifying any information included in this application.

Signature _____ Date _____