

## University Rule 5-130 B: Criminal Background Checks for University Staff . Revision 2. Effective date [October 1, 2017 ??]

### I. Purpose and Scope

~~A.~~ Purpose: To implement University Policy 5-130 (~~Policy on Criminal and Other Background Checks on University Employees~~) for University staff by describing the scope of staff positions subject to background checks, the types of employment actions which cause a background check to become required, the type of criminal and other background checks the University may use, and the related decision making processes.

~~B.~~ Scope: This Rule applies for all units of the University, and to all University staff positions in those units. ~~with a hire, rehire, or transfer date on or after The original version of this Rule took effect May 1, 2009.~~ This Rule does not apply for faculty and academic staff positions, which are regulated by separate rule (Rule 5-130A). Background checks of University personnel in addition to or different from those required under Policy 5-130 and this Rule may be required under other University Policies. See Policy 1-015: Safety of Minors Participating in University Programs or Programs Held on University Premises (applicable for other employees, and students and volunteers in certain circumstances).

### II. Definitions

- A. Definitions of terms provided in University Policy 5-130 apply for purposes of this Rule.
- B. Relevant employee category definitions are defined in Policy 5-001.
- C. ~~The Human Resources-Consultant Management (HRM)~~ referred to in this Rule is the ~~Human Resources~~ HRM staff member or designee assigned by HRM to the department to provide HRM consulting services.
- D. University of Utah Health (U of U Health) unit– for purposes of this Rule and Rule 5-130 A, is defined as any unit of the University which administratively reports through the office of the Senior Vice President for Health Sciences (including all academic units and clinical care units, as more fully described in Rule 5-130 A).

### III. Rule

- A. Covered Positions - Staff positions requiring for which a Criminal Background Check (CBC) is required under this Rule when an employment action occurs as specified in Part III-B are:

1. For all U of U Health units, all staff positions, regardless of percentage of FTE, are Covered Positions.
2. For all other units of the University (not included in U of U Health) Covered Positions include:
  - a. Benefited Staff Positions (.50 FTE or greater, Regular).
  - b. Non-Benefited Staff Positions including Temporary and Part-Time positions (any % FTE) that are classified as:
    - i. Security Sensitive as defined by Utah Board of Regents Rule R847-3, 3.9; or
    - ii. Involving Significant Contact with minors under 21 as defined by Utah Board of Regents Rule R847-3, 3-10.

c. Designated Division/Department Designation Positions

A designated unit (Division, Department or sub-unit), in consultation with HRM ~~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 designated unit ~~Division/Department or subunit~~ must uniformly apply all requirements for a CBC.

B. Staff employment actions which ~~initiate a CBC~~ cause a background check to become required for an employee in a Covered Position are:

1. New Hires: All new hires for a Covered Position with a Hire Date on or after the original effective date of this Rule (of 5-1-09 May 1, 2009) ~~or later~~ are subject to a pre-employment CBC in accordance with the position requirements as outlined above.
2. Rehires: ~~a:~~ All rehires for a Covered Position with a Rehire Date on or after the original effective date of this Rule (of 5-1-09 May 1, 2009) ~~or later~~ are subject to a pre-employment CBC in accordance with the position requirements as outlined above. However, if a CBC on the rehire candidate was previously conducted by the University within 12 months preceding the Rehire Date, the University may determine that the previous CBC satisfies the requirements of this Rule.
  - a. ~~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 units ~~departments~~ are required to initiate a CBC on any employees transferring into a Covered Position ~~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 Covered Position requiring a CBC is contingent on satisfactory completion of the CBC.

4. FTE Increases: ~~a~~ An increase in an employee's percentage of Full Time Equivalent (%FTE) which results in a change from a non-covered position to a Covered Position, ~~non-benefited to benefited status~~ will require the unit 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 for all existing staff employees

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

D. Criminal Background Check (CBC) packages

*[Note: the following description of typical background check contents is provided for illustrative purposes, and the University may from time to time modify the type and extent of background checks as needed, without revision of this Rule.]*

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 unit~~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

~~4.~~ 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 results, 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~~ HRM 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 to (or continuation in) the position 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~~ HRM 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~~ HRM may engage a representative of the Office of General ~~Counsel~~ Council and/or the unit's ~~department's~~ Cognizant Vice-President or designee in the evaluation. In a consultative role, ~~the Human Resources Consultant~~ HRM 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.

*[Note: Parts IV-VII of this Regulation (and all other University Regulations) are Regulations Resource Information – the contents of which are not approved by the Academic Senate or Board of Trustees, and are to be updated from time to time as determined appropriate by the cognizant Policy Officer and the Institutional Policy Committee, as per Policy 1-001 and Rule 1-001.]*

#### IV. References:

- A. **University Policy 5-130**
- B. **University Rule 5-130A** (Faculty and Academic Staff)
- C. Policy 1-015: Safety of Minors Participating in University Programs or Programs Held on University Premises
- ~~C.~~ D. Utah Board of Regents Rule R847-3, 3.9
- ~~D.~~ E. Office of Inspector General <http://oig.hhs.gov/>
- ~~E.~~ F. Excluded Parties List System <https://www.epls.gov/>

#### V. Contacts:

Policy officer:

Chief Human Resources Officer ~~Vice President for Human Resources~~

Policy Owner:

Human Resources, Director of Employment Services,

These officials are designated by the University President or delegee, with assistance of the Institutional Policy Committee, to have the following roles and authority, as provided in University Rule 1-001:

"A 'Policy Officer' will be assigned by the President for each University Policy, and will typically be someone at the executive level of the University (i.e., the President and his/her Cabinet Officers). The assigned Policy Officer is authorized to allow exceptions to the Policy in appropriate cases.... "

"The Policy Officer will identify an 'Owner' for each Policy. The Policy Owner is an expert on the Policy topic who may respond to questions about, and provide interpretation of the Policy; and will typically be someone reporting to an executive level position (as defined above), but may be any other person to whom the President or a Vice President has delegated such authority for a specified area of University operations. The Owner has primary responsibility for maintaining the relevant portions of the Regulations Library... . [and] bears the responsibility for determining -requirements of particular Policies... ." University Rule 1-001-III-B & E

## VI. History:

Current version. Revision 1.

Presented for the information of the Academic Senate on ???.

Presented for the information of the Board of Trustees on ???

Effective date: ??? 2017 to present

Earlier versions :

Revision 1:

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Effective date: August 27, 2012 to present

Revision 0:

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Presented for the information of the Board of Trustees April 27, 2009.

Effective date: May 1, 2009 to August 26, 2012.