

NUMBER: 530

SUBJECT: CRIMINAL BACKGROUND INVESTIGATIONS FOR STUDENTS AND EMPLOYEES

APPROVAL DATE OF LAST REVISION: OCTOBER 6, 2006; NOVEMBER 23, 2015; JUNE 19, 2017; JUNE 17, 2019

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530.1 – POLICY

It is the policy of Bridgerland Technical College (BTECH) to conduct a national criminal background investigation on all new employees, and new volunteer employees, as required by statute or governing code for existing employees, and as deemed necessary on independent contractors. The results from the background checks must be received by the College Administration prior to the first day worked.

530.2 – PURPOSE

The College bases hiring decisions on job-related criteria. Because the College provides training to secondary students and postsecondary students, the hiring practices are designed to identify any known potential risks to students and reduce those risks to the extent that is reasonably possible.

530.3 – REFERENCES

530.3.1 – UCA §53B-1-110

Criminal Background Checks of Prospective and Existing Employees of Higher Education Institutions

530.3.2 – UCA §53A-15-1503

Background Checks for Non-Licensed Employees, Contract Employees, Volunteers, and Charter School Governing Board Members.

530.3.3 – UCA §53A-6-401

Criminal Background Checks for Licensing

530.3.4 – UTAH SYSTEM OF TECHNICAL COLLEGES (USTC)

Policy #400 – Criminal Background Checks

530.4 – DEFINITIONS

530.4.1 – APPLICANT

Any person applying for employment, transfer, or promotion.

530.4.2 – EMPLOYEE

Any individual offered a position contingent on acceptable results of a criminal background check and other reviews required for the position by the College. An employee is someone who does receive compensation for work or services from funds controlled by the College regardless of the source of the funds, the duties of the position, the amount of compensation paid, or the percent of time worked.

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530.4.3 – VOLUNTEER EMPLOYEE

Any individual offered a volunteer position contingent on acceptable results of a criminal background check and other reviews required for the position by the college. A volunteer employee does not receive compensation from the College for work or services. Students participating in a sanctioned internship, externship, or clinical experience are considered a 'volunteer employee' of the College

530.4.3.5 – INDEPENDENT CONTRACTOR

An independent contractor is a natural person, business, or corporation that provides goods or services to the College under terms specified in a contract or verbal agreement. Unlike an employee, an independent contractor does not work regularly for the College but works as and when needed. People such as construction contractors, subcontractors, or others engaged in an independent trade, business, or profession in which they offer their services to the general public are generally independent contractors. The distinction between an employee and an independent contractor is dependent on a number of IRS factors, however, the general rule is that an individual is an independent contractor if the payer has the right to control or direct only the result of the work and not what and how it will be done.

530.4.4 – BACKGROUND CHECK

A criminal background check provided by the Utah Bureau of Criminal Identification, the Federal Bureau of Investigation, and/or another government or commercial entity.

530.4.5 – CAMPUS REVIEW COMMITTEE

Potential employees who have any record indicating a criminal background will be reviewed on a case-by-case basis by a Campus Review Committee. A Campus Review Committee may consist of the Controller, the respective Associate Vice President for Instruction, if applicable, a student services representative, and/or the appropriate accounting personnel. The committee will meet as needed to review these cases.

530.5 – PROCEDURES

The following procedures should be followed when electronically fingerprinting employees and/or volunteer employees for a background investigation performed through the Bureau of Criminal Investigation (BCI) and/or the Federal Bureau of Investigation (FBI). Fingerprints are captured using an electronic system to capture digital fingerprints.

The following two background investigations are used at the College:

FAN – WIN (students as applicable): Searches fingerprints against records from the states of: Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Wyoming. If there is a need, criminal fingerprints can also be searched against the California and Washington systems (students and employees).

NFUF – WIN/FBI (employees and students): Searches the western region and is then forwarded to the FBI for a search against nationwide records.

In the event additional background investigations are needed, instructions will be provided.

Collection of digital fingerprints can be captured by individuals trained on the system. A variety of support personnel have been trained to facilitate timely collection and submission of fingerprints to BCI and/or the FBI.

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530.5.1 – EMPLOYEES

Prior to employment, all employees will submit to a digital fingerprint using the NFUF background check. Adverse criminal background check results may affect employability. Adverse results will be referred to the Campus Review Committee for review and employment recommendations. All results will otherwise remain strictly confidential. Employees are required to have their fingerprints digitally scanned. The cost for the background investigation is covered entirely by the College. Picture ID is required.

530.5.2 – VOLUNTEER EMPLOYEES

Prior to employment, all volunteer employees will submit to a digital fingerprint using the NFUF background check. Adverse criminal background check results may affect employability. Adverse results will be referred to the Campus Review Committee for review and employment recommendations. All results will otherwise remain strictly confidential. Employees are required to have their fingerprints digitally scanned. The cost for the background investigation is covered entirely by the College. Picture ID is required.

530.5.3 – STUDENTS PARTICIPATING IN CLINICAL EXPERIENCES (WHEN APPLICABLE)

Students practicing in direct patient care and/or with controlled substances are required to submit to a background screening to comply with Education Affiliation Agreements and Utah codes. Students participating in a sanctioned internship, externship, or clinical experience are required to voluntarily submit to an independent 3rd party background check prior to enrollment or clinical assignment.

530.5.3.1 – CONTRACTUAL AGREEMENTS

Contractual agreements with the clinical facilities that provide portions of the educational/training experience for students attending applicable College programs require a criminal background investigation. These actions have been mandated in an effort to more effectively protect the safety and well-being of the patients, clients, and residents of those facilities and are fully supported by our program advisory committees.

530.5.3.2 – STUDENTS WITH CHARGES PENDING

Students are required to report any pending criminal charges at the time that they occur (this includes before beginning and during their educational program). The College reserves the right to place these students on a 'leave of Absence' until the courts have made a decision regarding the criminal actions. If a student is convicted of a crime, the Campus Review Committee will make a determination as to whether the student will be allowed to return to or be dismissed from the educational program.

530.5.3.3 – CHARGES & TUITION REIMBURSEMENT

Students will be charged a fee to cover the cost assessed for the background investigation. The College's Tuition Refund Policy will apply to all students who are dismissed from a program because of results of a criminal background investigation. The criminal background fee is paid to an independent 3rd party entity and therefore nonrefundable.

530.6 – CONFIDENTIALITY

All information received by the College as a result of a criminal background investigation will be considered strictly confidential.

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530.7 – LIMITATIONS ON USE OF INFORMATION

The information contained in the criminal background investigation will be available only to those persons performing the background investigations and directly involved in making employment or enrollment decisions. No other use or dissemination of this information is permitted. Criminal background results are never disseminated to other agencies.

530.8 – RESULTS

Results of either the FANC or NFUF background investigation for employees or volunteer employees will be available through a centralized database. For confidentiality reasons, the Accounting/Controller's Office is the only authorized user of this database. The database will provide the following responses:

Approved: no criminal background; cleared for student clinical experiences or employment

Pending: criminal history record is available to review

Results for students will be available through 3rd party access for authorized program personnel only.

530.8.1 – REPORTS OF ARREST AND COURT ACTION

530.8.1.1 – ARREST

An employee, volunteer employee, or student who is arrested for an alleged criminal offense (excluding minor traffic violations) shall report the arrest as soon as possible or within 48 hours to the employee's immediate supervisor or instructor.

530.8.1.2 – CONVICTION

An employee, volunteer employee, or student shall report, to his or her immediate supervisor or instructor, convictions, including pleas in abeyance and diversion agreements, within 48 hours or as soon as possible upon receipt of notice of conviction, plea in abeyance, or diversion agreement.

530.8.1.3 – REPORTING

The immediate supervisor shall report offense information received from the employee as soon as reasonably possible to the Controller's office or the College President. The instructor shall report the offense information received from a student volunteer employee as soon as reasonably possible to the Department Head.

An employee, volunteer employee, or student shall report for work or school following the arrest and notice to the supervisor unless directed not to report for work by the supervisor.

530.8.2 – REVIEW, INVESTIGATION AND SUSPENSION

The College President or his or her designee as applicable, in cooperation with the employee's immediate supervisor, shall review arrest information and:

- (a) Assess the employment status of the employee; and
- (b) Determine appropriate employment action.

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In cases which involve alleged sex offenses or other charges which may endanger students or patients, the employee/volunteer employee shall be suspended during the period of investigation.

An employee, volunteer employee, student employee, or independent contractor, who is terminated or receives an adverse employment action as a result of information concerning arrest or court action shall be given appropriate due process based on the College policy.

530.8.3 – ADDITIONAL BACKGROUND CHECK

Where reasonable cause exists, the Campus Review Committee or the College President may require an existing employee to submit to a background check.

530.9 – RISK ASSESSMENT AND RESULTS

Based on the results of the criminal background investigation, the appropriate Administrative personnel will assess the overall risk and determine what, if any, action is required for the student, employee, volunteer, or contractor before being allowed to enroll or begin work. Any action taken will be fairly and consistently applied based on the facts and circumstances of the situation. The risk assessment will include, but not be limited to, the (1) number of crimes committed, (2) the severity of those crimes, (3) the length of time since they were committed, (4) the likelihood of recidivism, (5) the security sensitivity of the position, (6) or, in the case of students, the requirements imposed by the respective program and/or clinical sites, (7) disposition of the charges, and (8) other factors that may be relevant.

530.10 – OPPORTUNITY TO RESPOND

If a person is denied employment or enrollment, or subjected to any adverse action because of the information obtained in the background investigation will be provided the opportunity to respond under applicable policy provisions. The opportunity to respond is provided for the sole purpose of providing the appropriate administrative person to assess the overall risk and would fall into the category of (8) “other factors that may be relevant”. Should an additional appeal occur, the applicant’s criminal background results may be used in a public hearing.