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Criminal Background Check and Reporting of Arrests Policy

I. Purpose

The purpose of this policy is to protect the safety, health, and security of Valley Academy Charter (“VAC”) students, employees, and property.

II. Individuals Subject to Background Checks

- a. Potential VAC employees must submit to a criminal background check as a condition for employment or appointment.
- b. VAC volunteers with unsupervised access to students in connection with the volunteer's assignment must submit to a background check as a condition of service. Until the background check is complete, the volunteer must remain under the supervised observation of a VAC employee.
- c. A representative (individual, employee, and/or agent) of a company or organization having established an arrangement or agreement with VAC 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 check may be used as a basis to refuse access of the representative to the school or students, at the sole discretion of VAC. Failure to comply with this provision shall be the basis for termination of the arrangement or agreement with the company or organization.
- d. A background check shall be required for the renewal of any Utah educator license in accordance with Utah Administrative Code R277-501.
- e. Non-licensed employees shall submit to a criminal background check at least every three years.
- f. School board members shall submit to a criminal background check upon being elected and ongoing monitoring as a condition for appointment.
- g. Where reasonable cause exists, VAC may require an existing employee or volunteer to submit to a criminal background check.

III. Conducting the Background Check

- a. Applicants shall complete a supplemental questionnaire as a condition of employment. The questionnaire requires self-disclosure of criminal misconduct or violations of the law. The information obtained from the background check and the self-disclosure of information from a completed questionnaire will be compared for accuracy. Any misstatement omission or misinformation on the supplemental questionnaire is grounds to not hire or for dismissal
- b. The applicant, volunteer, representative, or employee shall be required to sign a release enabling VAC to perform the background check. Refusal to sign the release will be used as the

sole basis to refuse employment, access, or participation in volunteer activities. Current employees who decline to sign the release form will be subject to corrective action up to and including dismissal from employment.

- c. VAC will access the files of the BCI Fingerprint/FBI search, consisting of Western Identification Network, Utah Criminal History, Statewide Warrant and Protective Order, Federal Want and Warrant, and FBI Criminal History files, when conducting criminal background checks.

IV. Payment for Background Check

All employees, including substitutes, and all volunteers requiring background checks shall be required to pay the designated cost of background checks.

V. Licensed Educators Required Reports of Arrest or Booking:

- a. A licensed educator who is arrested, booked, cited, or charged with the following alleged offenses shall report the incident as soon as possible or within 48 hours to VAC's Executive Director:
 - i. any matters involving alleged sex offenses;
 - ii. any matters involving alleged drug-related offenses;
 - iii. any matters involving alleged alcohol-related offenses; and
 - iv. any matters involving alleged offenses against the person under Title 76, Chapter 5, Offenses Against the person of the Utah Code.
- b. The licensed educator shall also report, to VAC's Executive Director, any convictions, including convictions identified above, any pleas in abeyance, and any diversion agreements within 48 hours or as soon as possible upon receipt of notice of conviction, plea in abeyance or diversion agreement.
- c. VAC's Executive Director or designee shall electronically report arrest or offense information received from licensed educators to the Utah State Office of Education (USOE) within 48 hours through the USOE website.
- d. The licensed educator shall report for work following the arrest and notice to the Executive Director unless directed not to report for work by the Executive Director.

VI. Non-licensed Public Employees or Volunteers Personal Reporting

- a. Non-licensed public education employees or volunteers must notify VAC's Executive Director as soon as possible but no later than five (5) business days after being cited, charged with, booked, arrested, convicted, or agreeing to a plea in abeyance or diversion agreement for any of the following crimes, regardless of the imposition of sentence:
 - i. any matters involving arrests for alleged sex offenses;
 - ii. any matters involving arrests for alleged drug-related offenses;
 - iii. any matters involving arrests for alleged alcohol-related offenses; and
 - iv. any matters involving arrests for alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person of the Utah Code.
- b. Supervisors must notify VAC's Executive Director or designee immediately upon an employee informing them of any of the matters listed above.

VII. Review and Investigation

- a. A criminal conviction does not necessarily preclude employment with VAC. VAC 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 or the decision

to not hire. Likewise, the dismissal of a criminal offense or arrest does not necessarily preclude VAC from taking administrative action.

- b. VAC will immediately suspend an employee from student supervision responsibilities pending the outcome of any investigation upon receipt of information concerning alleged offenses which may endanger students or interfere with the orderly operation of the school.
- c. Administration may consider both criminal and/or administrative findings. The safety and security of VAC students will be the foremost consideration. VAC's Executive Director, or designee, consider each circumstance on a case-by-case basis and use the following factors to determine an applicant or current employee's suitability to work at VAC:
 - i. Type of conviction;
 - ii. Relevance of any conviction to the individual's position;
 - iii. A history of multiple convictions that suggests a pattern of criminal behavior or bad judgment;
 - iv. Amount of time that has passed since a conviction and/or the completion of a sentence;
 - v. Frequency and severity of the crime(s)
 - vi. Age of the individual at the time the crime was committed;
 - vii. Evidence of rehabilitation.

VIII. Administrative Action and Due Process

- a. Applicants 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.
- b. Employees are subject to corrective action, up to and including termination, based on conduct identified from the results of their background checks, for refusal to submit to a background check, and/or for failure to report a citing, booking, arrest, charge or conviction as outlined in this policy.
- c. VAC may take employment or corrective action (up to and including dismissal), refuse to consider an applicant for employment, or refuse to hire a selected applicant for any offence relevant to the subject's assignment. Offenses relevant to all VAC assignments include but are not limited to the following:
 - i. any matters involving sex offenses;
 - ii. any matters involving drug-related offenses;
 - iii. any matters involving alcohol-related offenses; and
 - iv. any matters involving offenses against a person under UCA Title 76, Chapter 5, Offenses Against the Person of the Utah Code.
- d. Any statement of an employee or applicant on a supplemental questionnaire that is later deemed to be a misstatement omission or misinformation when verified with the results of a background check is grounds to not hire or for dismissal.
- e. 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 5 working days.
- f. Information obtained from BCI in a background check is confidential within the guidelines of the Government Records and Access and Management Act (GRAMA).

IX. References and Definitions

- a. "Licensed Educator" has the meaning given that term in UAC R277-516.

- b.** "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 offence identified in UCA Title 76, Chapter 5.
- c.** "Criminal History Report" means a report generated by the Bureau of Criminal Identification after a search of State of Utah criminal history files and/or other state and federal databases designed by law or by VAC.
- d.** "Driving Record Report" means traffic-related offenses contained in the Utah Division of Motor Vehicle databases.
- e.** "Background Check" means information regarding an applicant or employee that may include, but is not limited to, criminal history reports and driving records reports.
- f.** "Booking," (booked) for the purposes of this policy, shall refer to the process by which the police department registers and enters charges against a person believed to have violated the law. The process of booking occurs when the subject's personal information is recorded as a suspect in a crime and/or when the subject's fingerprints are taken. Both recording personal information and fingerprinting need not occur at the same time in order for a booking to occur. A booking may result from a court order, citation, or an arrest.
- g.** "Arrest," is a seizure or forcible restraint or the taking or keeping of a person in custody by legal authority, especially, in response to a criminal charge and/or the apprehension of someone for the purpose of securing the administration of the law.