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## **Required Background Checks and Reports of Arrest Policy**

### **I. Authority and Purpose**

A. The Academy for Math Engineering and Science (AMES) Board (“Board of Trustees”) is required to establish a background check policy consistent with UCA 53G-5-408 Criminal background check on school personnel, and 53G-11, Part 4 Background Checks.

B. This policy is enacted for the purpose of protecting the safety, health, and security of AMES students, employees, and property.

### **II. CRIMINAL BACKGROUND CHECKS**

Individuals desiring to be employed by, volunteer to perform services for, or serve on the Board of AMES shall submit to a national criminal background check and ongoing monitoring as a condition for employment, volunteer work or appointment as follows:

#### **A. Initial Fingerprint-based Background Checks**

1. A potential employee who does not hold a current Utah educator license issued by the Utah State Board of Education under Utah Code Ann. §53E-6 Professional Licensure and §53G-11 Employees , whether part-time, full-time, contract employee, or substitute, shall submit to a criminal background check and consent to ongoing monitoring prior to beginning service.

2. A volunteer who will be given significant unsupervised access to a student in connection with the volunteer’s assignment shall submit to a nationwide criminal background check and consent to ongoing monitoring prior to being authorized to serve as a volunteer.

#### **B. Ongoing Monitoring**

1. Upon submission of an individual’s initial fingerprint background check to the Utah Bureau of Criminal Identification (BCI), AMES shall request BCI to register the individual’s personally identifying information for the purpose of conducting ongoing monitoring. BCI will notify AMES when a new entry is made against an individual whose fingerprints are registered with the state and national systems.

2. Where reasonable cause exists, AMES may require an existing employee or volunteer to submit to a criminal nationwide background check or review the individual’s criminal history.

C. A background check and ongoing monitoring shall include driving record reports on applicants and employees when their positions require driving as an essential job function. AMES shall update driving records:

1. at least one (1) time per year for employee for whom driving is an essential job function.

#### **D. Conducting the Background Check**

1. The applicant, volunteer, or employee will receive written notice from AMES that the background check has been requested.
2. The applicant, volunteer, or employee will be required to complete and sign the personal information release form and submit to the background check and ongoing monitoring.
3. The background check and ongoing monitoring will include, but not be limited to, a fingerprint check conducted by the AMES Human Resources Department, the FBI, and the Utah Bureau of Criminal Identification.

E. Payment for Background Check

1. Applicants for employment, including substitutes, will be required to pay the designated costs of background checks if the applicant has passed an initial review and is one of a pool of no more than five candidates for the position.
2. A volunteer who will be given significant unsupervised access to a student in connection with the volunteer's assignment may be required to pay the designated costs of background checks.
3. An employee may be required to pay the designated costs of periodic reviews of criminal history as a condition of continued employment.
4. AMES will pay the cost of background checks and/or reviews for employees or volunteers when initiated for reasonable cause rather than as a condition of continued employment.

**III. REVIEW OF INFORMATION AND DETERMINATION OF SUITABILITY TO WORK AT AMES**

Upon receipt of background check results, AMES will determine what, if any, action is warranted. A criminal record does not necessarily preclude employment or service with AMES. AMES has the sole and absolute discretion to determine whether the outcome of a criminal background check or driving record check disqualifies an individual from the position being held or sought. The safety and security of AMES students will be the foremost consideration.

A. AMES personnel will provide an opportunity for an individual to review and respond to any criminal history information received under this policy.

B. AMES will consider each circumstance on a case-by-case basis to determine an applicant or employee's suitability to work at AMES. Utah Code Ann. §53G-11- 405(3) requires that AMES considers the following:

1. any convictions, including pleas in abeyance;
2. any matters involving a felony; and
3. any matters involving an alleged;
  - a. sexual offense;
  - b. class A misdemeanor drug offense;
  - c. offense against the person under Title 76, Chapter 5, Offenses Against the Person;
  - d. class A misdemeanor property offense that is alleged to have occurred within the previous three years; and
  - e. 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.

C. In reviewing criminal history records, factors considered include, but are not limited to, the following:

1. type of conviction;
2. relevance of any conviction to the individual's position;
3. a history of multiple convictions that suggest a pattern of criminal behavior or bad judgment;

4. amount of time that has passed since a conviction and/or the completion of a sentence;
5. age of the individual at the time the crime was committed;
6. evidence of rehabilitation.

D. An individual who is disqualified as a result of information obtained through a criminal background check or review shall receive written notice of the reasons for disqualification, have opportunity to respond to the reasons, and request a review of the disqualification.

E. Information obtained through background checks is confidential and may only be disclosed as provided in Utah Code Ann. Title 53G, Chapter 11, Part 4.

#### **IV. RISK MITIGATION**

In order to ensure AMES only receives criminal history notifications for individuals with whom AMES maintains a relationship as an employee or authorized volunteer, AMES will:

1. upon receiving notification of criminal activity, review the current status of the individual in relation to AMES; and
2. decline to accept and review the detail of the notification if the individual named is no longer employed or authorized to volunteer by AMES.

#### **V. SELF REPORTING OF ARREST AND COURT ACTION**

##### **A. Personal Reporting of Arrest**

1. An AMES employee who is arrested, cited or charged with the following alleged offenses shall report the arrest, citation, or charge as soon as possible or within 48 hours to the AMES' Principal or supervisor:

- a. any matters involving an alleged sex offense;
- b. any matters involving an alleged drug-related offense;
- c. any matters involving an alleged alcohol-related offense; and
- d. any matters involving an alleged offense 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 crime of domestic violence under Title 77 Chapter 36, Cohabitant Abuse Procedures Act; and
- g. any matters involving an alleged crime under federal law or the laws of another state comparable to the violations listed here.

B. An AMES employee shall report, to the employee's Principal or supervisor, 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.

C. The Principal shall electronically report arrest or offense information received from licensed educators to the Utah State Board of Education (USBE)/UPPAC within 48 hours through the USBE website.

D. The employee shall report for work following the arrest and give notice to the Principal or supervisor, unless directed not to report for work by the Principal.

#### **VI. Review, Investigation, and Suspension**

A. The Principal, in cooperation with the AMES' Principal or supervisor, shall review arrest information and:

1. assess the employment status considering the employee's assignment and the AMES policy regarding ethical conduct;
2. if the employee is a licensed educator, assess the employment status considering the provisions of Utah Code Ann §53E-6-604 and Utah Administrative Code R277-217; and
3. make employment decisions that protect both the safety of students and the confidentiality and due process rights of the employee.

B. An employee shall be immediately suspended from student supervision responsibilities for alleged sex offenses and other alleged offenses which may endanger students during the period of investigation.

C. An employee shall be immediately suspended from transporting students and vehicle operation in the performance of AMES duties, for alleged offenses involving alcohol or drugs during the period of investigation.