

NUMBER: 530

SUBJECT: CRIMINAL BACKGROUND INVESTIGATIONS FOR STUDENTS AND EMPLOYEES

EFFECTIVE DATE: JULY 1, 2016

APPROVAL DATE OF LAST REVISION: OCTOBER 6, 2006

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### **530.1 — PURPOSE**

~~The purpose of this procedure is~~ To outline the steps (where applicable) to be followed when a new employee (in accordance with Section 385.3.4 of the Policy Manual) or a student (in accordance with the policies of their respective program) is required to participate in a criminal background investigation.

### **530.2 — POLICY**

#### **530.2.1 — STUDENTS**

All students entering Bridgerland Applied Technology College (BATC) programs that require criminal background investigations must pass the investigation and not be listed on the sex offender Web site prior to enrollment and/or participation in internship, externship, or clinical experiences.

#### **530.2.2 — EMPLOYEES AND VOLUNTEERS**

Employees and volunteers must submit to a criminal background investigation as a condition of employment.

#### **530.2.3 — CONTRACTORS**

At the discretion of BATC Administration, all contractors, independent contractors, contracted trainers, private trainers, and their employees (where applicable) who will have any significant, unsupervised contact with secondary students, must submit to a criminal background investigation.

#### **530.2.4 — CONFIDENTIALITY**

All information received by BATC as a result of a criminal background investigation will be considered strictly confidential and access will be limited to a need-to-know basis.

#### **530.2.5 — 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.

#### **530.2.6 — RISK ASSESSMENT AND RESULTS**

Based on the results of the criminal background investigation, the appropriate BATC 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, and (6) other factors that may be relevant.

#### **530.2.7 — OPPORTUNITY TO RESPOND**

If a person is denied employment or enrollment, or subjected to any adverse action because of the information obtained in

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the background investigation, the person shall receive notice of such action and be provided the opportunity to respond under applicable policy provisions. The opportunity to respond is provided for the sole purpose of providing the appropriate BATC administrative person to assess the overall risk and would fall into the category of (6) "other factors that may be relevant" from #530.2.6 above.

### **530.2-3 — PROCEDURES**

The following procedures should be followed when electronically fingerprinting students and/or employees for a background check investigation performed through the Bureau of Criminal Investigation (BCI) and/or the Federal Bureau of Investigation (FBI). BATC is using an electronic system to capture digital fingerprints. Admission into the Practical Nursing and other applicable College programs is contingent upon the students passing a criminal background check and not being listed on the sex offender Web site.

The following two background investigations are used at BATC:

FANC – WIN (students as applicable): Check that 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): Check that Searches the western region and is then forwarded to the FBI for a search against nationwide records.

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

The state sex offender Web site will be accessed by a department representative to determine if any accepted student or employee names appear.

Collection of digital fingerprints can be captured by individuals trained on the Identix TP 3100 system. A variety of support personnel have been trained to facilitate timely collection and submission of fingerprints to BCI and/or the FBI.

#### **530.3.1 — TWO AVAILABLE BACKGROUND CHECKS INVESTIGATIONS EXIST FOR BATC STUDENTS**

Students subject to a background investigation are required to sign the Background Screening Student Information Form and have their fingerprints digitally scanned at Student Services or to provide the results of a current, third-party, background check investigation in a sealed envelope. The cost for the investigation national background check is \$50, is payable the day the fingerprints are scanned. Picture ID is required. Please allow 20-30 minutes to complete this process.

**530.3.1** — BATC programs preparing students for career areas requiring criminal background check investigations may also require enrolled students to submit to a digital fingerprint background check investigation before or during enrollment and/or clinical experiences. Students enrolling in career areas not demanding background checks investigations for employment will not be required to submit to a background check investigation for training. Programmatic requirements will determine which of the criminal background checks (FANC or NFUF) are required. Students must obtain a Background Check Request Form signed by their instructor indicating which background check is required.

#### **530.3.1A — CONTRACTUAL AGREEMENTS**

Contractual agreements with the clinical facilities that provide portions of the educational/training experience for students attending applicable College programs require a clean criminal background investigation and not be

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listed on the sex offender Web site. 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.

**530.3.1B — CONFIDENTIALITY & REVIEW**

Students whose background checks show evidence of criminal action will be reviewed on a case-by-case basis to determine if they will be allowed to enter/progress in their respective College program. Information obtained in the criminal background investigation may be disclosed on a need-to-know basis to the Campus Review Committee.

**530.3.1C — RESULTS**

Students are required to inform their respective College Program Coordinator of any criminal charges they may have pending against them and are encouraged to have criminal records expunged prior to seeking background checks if time permits.

The results from the background checks ~~investigations completed at BATC~~ will usually be received by BATC Administration within 72 hours. If the results show an arrest record or criminal charges, the appropriate BATC personnel will conduct a risk assessment outlined in 530.2.6 above and, where applicable, will contact the individual directly. Practical Nursing Director (or department representative) or the applicable program department head will contact the student directly.

According to the Utah Nursing Practice Act (§58-31b-302), a person who has been charged with a violent felony or a felony other than a violent felony and has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation may not file an application for licensure any sooner than five years after having completed the conditions of the sentence or plea agreement. Therefore, students who have committed felonies and have not met the above-stated criteria will not be allowed to enter and/or complete the Practical Nursing program.

Results of either the FANC or NFUF background check ~~investigation~~ will be available in 24-72 hours 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: information is forthcoming regarding criminal history

Criminal History Sent: hard copy of criminal history has been mailed

Adverse criminal background ~~check~~ investigation results may affect the student's ability to continue with and/or complete the training program. Adverse result notification will be provided to the respective department head and an administrative committee to review and provide subsequent enrollment recommendations. All results will otherwise remain strictly confidential.

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**530.3.1D — CAMPUS REVIEW COMMITTEE**

Students 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 consists of a Student Services representative (or designated representative), the respective Vice President for Instruction (or a designated representative), and the applicable department head (or a designated representative). The committee will meet as needed to review these cases.

The student will not be allowed to participate in any clinical experiences until the committee has met and made a decision regarding the case.

The student will be informed verbally and/or in writing of the committee's decision.

**530.3.1E — DUE PROCESS**

Students who are not permitted to continue in their education program may appeal this decision by following BATC's Student Grievance Procedure.

**530.3.1F — 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.

**530.3.1G — CHARGES & TUITION REIMBURSEMENT**

Students will be charged a fee to cover the cost assessed to BATC for the background check investigation and a nominal fee for equipment reimbursement. Invoices will be received monthly with a subsequent purchase order written by the Accounting/Controller's Office personnel.

BATC's Tuition Refund Policy will apply to all students who are dismissed from a program because of results of a criminal background investigation or being listed on any sex offender Web site. The criminal background fee is nonrefundable.

**530.4 — EMPLOYEES**

Prior to employment, all employees will submit to a digital fingerprint using the NFUF background check. No fee will be assessed for employees. Adverse criminal background check results may affect employability. Adverse results will be referred to the ~~Vice~~ Campus President for Finance and an administrative committee for review and employment recommendations. All results will otherwise remain strictly confidential.

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**530.2.2 — *EMPLOYEES***

Employees, volunteers, and contractors subject to a background investigation are required to have their fingerprints digitally scanned by BATC's Accounting/Controller's Office. The cost for the background investigation is covered entirely by BATC. Picture ID is required.