



## Planning and Policy Manual

### Abstract

This document includes the long range plan, technology plan, bylaws of the Saratoga Springs Public Library Advisory Board, and policies which govern Library operations.

Saratoga Springs Public Library

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## XV: Background Checks

The purpose of this Policy is to preserve the safety and well-being of individuals utilizing the Library and its services and others who utilize City owned, operated, and maintained facilities. The Policy requires criminal background checks for Library employees and volunteers over the age of 18. This Policy is intended to meet the requirements of U.C.A. § 9-7-218. In the event of a conflict, the more restrictive provision shall apply so long as there is no violation of U.C.A. § 9-7-218. The list of disqualifying charges (whether pending or otherwise) or convictions is listed below in XV: Background Checks Disqualifying Offenses (hereinafter referred to as “disqualifying offenses”). Use of the term “dismissed with prejudice” herein shall also include charges that were dismissed without prejudice, if and only if, the applicable prosecution agency clearly indicates in writing that charges will not be brought again in the future.

### Criminal Background Check Implementation

Prior to employment or voluntary service, criminal background checks are mandatory for all Library employees and volunteers. All Library employees and volunteers are covered by this Policy, regardless of whether they are employees or volunteers.

Prior to beginning their employment or volunteer service with the Library, all prospective employees and volunteers are required to undergo a criminal background check. All employees and volunteers will be required to sign a written consent form allowing the City to order an individual criminal background check.

All signed consent forms for prospective employees must be turned in to the HR Department. All signed consent forms for prospective volunteers must be turned in to the Library Director, or designee, no later than the designated due date.

Failure to provide a completed consent form by the deadline will automatically disqualify the employee or volunteer from employment and service.

Employees and volunteers who discontinue their employment or volunteer service for longer than 12 consecutive weeks will be required to sign a new consent for another background check to be completed.

New criminal background checks will be conducted for continuing employees and volunteers every five (5) years. When a new background check is required, the employee or volunteer shall be required to sign an additional background check consent form within five (5) business days of the date it is requested and prior to the Library running the background check. If a volunteer fails to meet this deadline, the volunteer’s service shall terminate automatically. If an employee

fails to meet this deadline, the City shall consider termination proceedings pursuant to the Personnel Manual and U.C.A. §§ 10-3-1105—1106.

The Library reserves the right to conduct a background check of any Library volunteer or employee at any time upon a reasonable belief the employee or volunteer has committed or been charged with a new disqualifying offense.

During the term of service of an employee or volunteer, if any criminal charges are brought through a citation, Information, indictment, or other charging document against such employee or volunteer that are disqualifying offenses, the employee or volunteer is required to immediately disclose the nature of the charges to the Library Director and Human Resources Director. Failure to notify the Library Director within five (5) days of such a criminal charge being brought against a volunteer, will result in the volunteer's service terminating immediately. For an employee, failure to notify the Library Director and Human Resources Director within five (5) days of such a criminal charge being brought against the employee will result in the City considering termination proceedings pursuant to the Personnel Manual and U.C.A. §§ 10-3-1105—1106.

### Background Screening Processing and Handling of Information

The City will be responsible for selecting a reporting agency or method to conduct criminal background checks. The Library Director, or designee, will administer the process of criminal background checks for volunteers. The HR Department will administer the process of criminal background checks for employees.

The HR Department is responsible for keeping the results of criminal background checks in a safe and secure location and in keeping them for the time period specified in the City's retention policy or applicable law, whichever is longer. The HR Department is also responsible for ensuring that the records are kept private and are not disseminated, except for the purposes of assisting the City in making a decision as to whether Library employees are eligible for prospective or continuing employment.

### Prospective Employees

The HR Department will administer the process of criminal background checks for prospective employees. If a criminal background check for a prospective employee includes any offense, the HR Department will receive the background check from the reporting agency and will determine if there is a disqualifying offense.

Upon receiving notification of an offense, the HR Department will disqualify the individual in accordance with these Policies, and, therefore, the individual will not be allowed to be employed. The individual who has been disqualified will receive written notification informing

the individual of disqualification and of the method for disputing the results of the criminal background check and the right to appeal.

If a background check indicates that a prospective employee has pending criminal charges for a disqualifying offense, the prospective employee may not be hired until there is a resolution of the charges resulting in dismissal with prejudice or acquittal. Under no circumstances will a prospective employee be hired if the prospective employee has been found guilty, entered a plea of guilty or no contest, been found guilty in absentia, or has pending charges of a disqualifying offense.

If an employee subsequently has any criminal charges brought against them that are disqualifying offenses, the employee is required to disclose the charges to the Library Director and Human Resources Director within five (5) days. The Library Director, HR Department, City Administration, and City Attorney's Office will work together to determine if the employee will be reassigned, terminated, suspended with pay, or suspended without pay until there is a resolution of the charges in favor of dismissal with prejudice or acquittal. If the proceeding results in dismissal with prejudice or acquittal the employee may resume employment. If the charges are confirmed, the City will consider termination pursuant to the Personnel Manual and U.C.A. §§ 10-3-1105—1106. If lawfully permissible pursuant to the Personnel Manual and U.C.A. §§ 10-3-1105—1106, and after following all applicable due process requirements, an employee shall not be allowed to continue employment if an employee has been found guilty, entered a plea of guilty or no contest, or been found guilty in absentia of a disqualifying offense.

### Prospective Volunteers

The Library Director will administer the process of criminal background checks for prospective volunteers. If a background check for a prospective volunteer includes any of the listed disqualifications, the Library Director will receive notification that the background check revealed a disqualifying offense. Upon receiving notification, the Director will disqualify the individual from volunteer service. The individual who has been disqualified will receive written notification informing the individual of their disqualification and of the method for disputing the results of the background check and their right to respond in writing. Under no circumstances will an individual be allowed to serve as volunteer if the individual has been found guilty, has entered a plea of guilty or no contest, has been found guilty in absentia, or has pending charges of a disqualifying offense.

If a background check indicates that a prospective volunteer has criminal charges pending of a disqualifying offense, the prospective volunteer will be disqualified from volunteer service until there is a resolution of the charges in the form of a dismissal with prejudice or acquittal.

Should a volunteer subsequently have any criminal charges brought against them for a disqualifying offense during their term of service as a volunteer, they are required to disclose the nature of the charges to the Library Director within five (5) days, and they will be

disqualified from serving until there is a resolution of the charges in favor of dismissal with prejudice or acquittal. If the proceeding results in dismissal with prejudice or acquittal, the volunteer may resume service. If the charges are confirmed, the volunteer will be dismissed and not allowed to continue service. Under no circumstances will a volunteer be allowed to continue service if a volunteer has been found guilty, entered a plea of guilty or no contest, or been found guilty in absentia of disqualifying offense.

### Disqualifying Offenses

An employee or volunteer will be disqualified and prohibited from serving if the person has been found guilty of the crimes listed below. Guilty means the person was found guilty following a trial, entered a guilty plea, entered a no contest plea, or was found guilty in absentia, regardless of the adjudication. Pending means the person has been charged, whether by citation, indictment, Information, or other charging document, but a resolution of those charges has not been reached. This Policy does not apply if criminal charges resulted in acquittal or dismissal with prejudice. This Policy shall apply if the charges resulted in being dismissed due to a mistrial unless the prosecuting attorney indicates in writing that new charges will not be brought.

1. All sexual offenses, regardless of the amount of time since the offense. Examples include, but are not limited to, child molestation, rape, sexual assault, sexual battery, statutory rape, prostitution, solicitation, and indecent exposure.
2. All felonies that constitute offenses against the person, regardless of the amount of time since the offense. Examples include, but are not limited to, criminal homicide, murder, automobile homicide, child abuse homicide, manslaughter, homicide by assault, aggravated assault, mayhem, kidnapping, human trafficking, and robbery.
3. Any crimes involving children regardless of the amount of time since the offense.
4. All felony offenses other than those against the person or sexual offenses within the past ten (10) years. Examples include, but are not limited to, drug offenses, theft, embezzlement, fraud, arson, and burglary.
5. All misdemeanors that constitute offenses against the person within the past seven (7) years. Examples include, but are not limited to, misdemeanor assault, domestic violence, and hit and run.
6. All misdemeanor drug and alcohol offenses within the past five (5) years or multiple instances of such offenses in the past ten (10) years. Examples include, but are not limited to, driving under the influence, misdemeanor drug possession, disorderly conduct, public intoxication, and possession of drug paraphernalia.
7. Any other offense within the past five (5) years that could be considered a potential danger to children or demonstrates a propensity for violence.

Nothing in this Policy shall be construed as a waiver or limitation of the reasonable discretion of the Library to disqualify an employee or volunteer when, in the sole opinion of the Library, after consultation with City Administration, City Attorney's Office, and/or HR Department, a charge

or conviction is of such a nature that the employee or volunteer has a propensity to endanger the City, Library, public, or program participants.

### Correcting Errors

The employee or volunteer is responsible for contacting the reporting agency and taking appropriate action to have the results of a criminal background check report corrected if they believe information was reported in error. The City is not responsible for errors or omissions that may be reported on criminal background checks.

### Responding to and Notification of Disqualification Decisions

The City shall follow the following procedures for notification of disqualification decisions and opportunities to respond in writing or appeal decisions. This subsection Responding to Notification and Disqualification Decisions is intended to comply with U.C.A. § 9-7-218, U.C.A. §§ 10-3-1105-1106, and the Personnel Manual. In the event of a conflict between the U.C.A. provision or Personnel Manual, the U.C.A. shall take precedence.

**Prospective Employees.** Any prospective employee or applicant who is disqualified based on their background check will be notified that their offer letter has been rescinded and why. The prospective employee or applicant may respond in writing to the decision. The City may, but is not required to, reconsider the decision to disqualify the prospective employee or applicant.

**Existing Employee.** An existing employee with appeal rights pursuant to the Personnel Manual and U.C.A. §§ 10-3-1105—1106 who is disqualified pursuant to this policy shall be entitled to a pre-determination hearing, pursuant to the Personnel Manual, whether to terminate the existing employee. The City shall send the existing employee notice of the pre-determination hearing and give the employee an opportunity to respond in writing and at the hearing to the decision. The City may, but is not required to, reconsider the decision to terminate the existing employee and shall at all times follow Utah law and the Personnel Manual in making a decision to terminate.

**Existing Employee with No Appeal Rights.** For an existing employee with no appeal rights pursuant to the Personnel Manual and U.C.A. §§ 10-3-1105—1106, the City shall notify the employee of the decision and provide the employee with an opportunity to respond in writing to the decision of disqualification and termination. The City may, but is not required to, reconsider the decision to disqualify the existing employee.

**Volunteers.** Any volunteer applicant who is disqualified shall be notified of the disqualification decision and provided an opportunity to respond in writing.