

Administrative Procedure 700

AP 700 – CRIMINAL RECORD CHECK

Background

The Division believes that providing a safe environment for students and staff requires the utmost diligence on its part. To that end, the Division requires that all persons being recommended for employment, prospective interns and volunteers undergo a criminal record check. A current criminal record check must be brought by a candidate to an interview for employment or added to their online application.

A clear criminal record check is not a guarantee of character and only indicates the person does not have a record. It is only one element in the process of determining the suitability of the employee, intern or volunteer. Interviews, references and former employers (checked back as far as possible) will also be used in choosing the successful candidates.

Procedures

1. The criminal record check must be original and completed within the last six months.
2. The criminal record check is to include:
 - 2.1 Vulnerable Sector Search.
 - 2.2 All criminal convictions, under any and all criminal legislation, including the Criminal Code, the Narcotics Control Act, the Controlled Drug and Substances Act, the Food and Drugs Act and all criminal legislation. Conviction means the final judgment on a verdict or a finding of guilty, or a plea of guilty. Conviction does not include a final judgment which has been reversed, set aside, or otherwise rendered invalid.
 - 2.3 A search of the automated criminal records retrieval system to determine if the applicant has been convicted of, and has been granted pardon for, any of the offences that are listed in the schedule to the Criminal Records Act.
 - 2.4 A search of the automated criminal records retrieval system maintained by the Royal Canadian Mounted Police to determine if the applicant has been convicted of, and has been granted pardon for, any of the sexual offences that are listed in the schedule to the Criminal Records Act.
3. If a Record of Convictions /police records check cannot reasonably be obtained before the expected start date of employment or activity, temporary conditional approval may be offered. The offer shall be made on the condition that the

employment will be contingent on satisfactory review by the Director or designate of the Record of Convictions /police records check.

4. Failure to provide a criminal record check as outlined in point 2 above or submitting an inaccurate, false, misleading criminal record check, constitutes grounds for dismissal or refusal to offer employment/placement. The Division retains the right to make a hiring or appointment decision based in part on the accurate information as disclosed in the criminal record check.
5. If an individual submits a criminal record/vulnerable sector check, based on name and date of birth only, that is marked incomplete, possible match or indicates that a record “may or may not” exist, the individual will be required to provide a criminal record/vulnerable sector check supported by a fingerprint analysis. The individual must provide proof that a fingerprint analysis has been requested and is currently being processed. If sufficient proof is obtained, and an affidavit regarding the status of a criminal record is signed, then the individual may be permitted to work/volunteer during the processing period.
6. If an individual submits a criminal record check/vulnerable sector search that indicates “adverse information located”, the individual will be required to provide additional information to support their suitability for employment with the school division. This may include medical and/or legal information as well as an interview.
7. A criminal record check which indicates a conviction, pending charges or pardon for any offence listed in the Criminal Records Act shall be assessed by the Director or designate through an interview process. This shall take into account:
 - 7.1 The nature and particulars of the criminal conviction;
 - 7.2 The age of the individual when the event in question occurred;
 - 7.3 The time elapsed since the charge, conviction or pardon;
 - 7.4 The rehabilitative measures undertaken by the individual; and
 - 7.5 The relationship of the conviction, charges or pardon to the position which the person is applying.After the interview process is complete, the Director or designate will make a recommendation as to whether or not the individual is suitable for employment.
8. In the case of applications for employment, the Director or designate shall inform those short-listed individuals who are unsuccessful with their application due to criminal record considerations.
9. Individuals may appeal in writing to the Director within fifteen (15) days of being notified their employment has been terminated or an offer of employment has been withdrawn.

10. If requested, negative results from Record of Convictions/criminal record checks shall be returned to individuals who provided such documentation.
11. When information from a Record of Convictions/criminal record check prevents the hiring of an individual, those documents shall be returned at the request of the applicant. If no request is made, all non-electronically submitted documents will be shredded after an appropriate period of time has passed.
12. When Human Resources, in consultation with the Director or designate, determines that it is appropriate to hire an individual with a record, the individual may be required to periodically submit a Record of Convictions. This file shall be reviewed by the Director or designate to determine which records, if any, may be destroyed. The Director or designate will be guided by this principle – the more serious the offense, the longer the record will be kept.
13. Any individual who receives a pardon, or who is successful in having a criminal record expunged, may submit a current criminal record check. A previously submitted criminal record check shall be returned to the individual upon request.
14. Individuals will be responsible for any costs associated with obtaining a Record of Convictions and/or a Criminal Record Check/Vulnerable Sector Check.

Reference: Sections 85, 87 Education Act
Controlled Drugs and Substances Act
Criminal Code of Canada
Criminal Records Act
Food and Drugs Act
Narcotics Control Regulations
Criminal Records Regulations