

Living Sky School Division No. 202

Administrative Procedure (AP) Manual



Procedure Name: Criminal Record Checks			
Procedure Type:	Human Resources	Implementation Date:	AUG 31, 2016
Procedure Number:	5.02	Last Approval Date:	May 29, 2024
AP Owner:	HR Administrator	Last Reviewed:	MAY 29, 2024
Legal Reference(s):	Sections 85, 87 Education Act; Controlled Drug and Substances Act; Criminal Records Act; Criminal Code of Canada; Food and Drugs Act; Criminal Records Regulations		

Background

Living Sky School Division (LSKYSD) recognizes that student safety is a prime responsibility. The division protects the public interest by requiring every individual with direct responsibility for students to provide a satisfactory criminal record check and vulnerable sector search upon initial employment/placement in a school, and as required thereafter.

Scope

This applies to all employees, interns, volunteers or other persons who may be working directly with our students.

Roles & Responsibilities

- **Principal** - The principal will ensure that volunteers or other persons working directly with students have updated criminal record checks.
- **Human Resources** - Human Resources will be responsible for ensuring this procedure is adhered to by all employees.

Procedures

1. An original, current (within 12 months) criminal record check, including a vulnerable sector search, is required from the following:
 - a. Applicants being recommended for employment with Living Sky School Division, including all casual and substitute staff;
 - b. Students taking part in internships or field experiences;
 - c. People acting as volunteers for school sponsored activities who have direct and sole responsibility for providing supervision of students, and
 - d. Any other individual who has direct and sole responsibility for providing supervision of students.
2. Employees, interns and volunteers shall not be placed until results of criminal record checks have been collected and confirmed.
3. The individual will provide the results of the criminal record check, including a vulnerable sector search, at his or her own expense. This may also include the cost of a secondary search to obtain fingerprints, if necessary.
4. Principals are responsible for obtaining and storing criminal record checks for all school-based volunteers. Volunteers who are providing services under the direct supervision of a LSKYSD employee do not require criminal record checks.
5. Principals shall contact human resources or designate when results of criminal record checks reveal convictions or are unclear.
6. The criminal record check as it pertains to recommendations for suitability of employment, placement for internship/field experience or voluntarism includes:



7. All criminal convictions under *The Criminal Code of Canada*, *The Controlled Drug and Substances Act* (prior to 1996 *The Narcotics Control Act*) and *The Food and Drugs Act*.
 - a. Conviction means the final judgment on a verdict or a finding of guilty, or a plea of guilty.
 - b. Conviction does not include a final judgment that has been reversed, set aside, or otherwise rendered invalid.
8. A search of the automated criminal records retrieval system maintained by the Royal Canadian Mounted Police to determine if the individual has been convicted of, and has been granted a pardon for, any of the offences that are listed in the schedule to the *Criminal Records Act*.
9. In situations where the criminal record check includes a conviction or is otherwise unsatisfactory, the individual must meet with human resources or designate. They will be required to complete an affidavit providing details about any convictions or outstanding charges.
10. Human resources or designate shall base his or her decision regarding employment or placement suitability taking into consideration matters such as those that follow:
 - a. The nature and particulars of the criminal conviction;
 - b. The age of the individual when the events in question occurred;
 - c. Any extenuating circumstances as provided by the individual;
 - d. The time that has elapsed between the conviction and the application for employment or placement and the activities of the individual during that interim period;
 - e. The rehabilitative measures undertaken by the individual since the conviction and the commitment the individual has to rehabilitation and to refraining from criminal activities, and
 - f. The relationship of the conviction to the position/placement for which the person is applying.
11. If a criminal record search by fingerprints is required, and there is a satisfactory explanation regarding the results of the criminal record check, a time extension may be granted.
12. Human resources will examine the results of the secondary search to ensure there are no concerns regarding possible or continued employment or placement with the Division.
13. Any appeal of the decision of human resources must be made in writing to the director or designate within 15 days of the notification of the termination of employment/placement, refusal to offer employment/placement or withdrawal of any offer of employment/placement.
14. Results of the criminal record check shall be kept confidential and maintained in a secure location. It is the responsibility of the individual to act in accordance with Procedure 5.03 - *Reporting Criminal Charges* should a charge be laid after the provision of the initial criminal record and vulnerable sector checks.
15. Anyone who receives a pardon or is successful in having a criminal conviction record expunged may submit a new criminal record check. In such cases, the previously submitted criminal record check shall be returned to the individual upon request.
16. Failure to cooperate in providing a criminal record check and vulnerable sector search, or submission of an inaccurate, false, misleading, or incomplete criminal record check constitutes grounds for the following actions:
 - a. Termination of employment or placement;
 - b. Refusal to offer employment or placement, or
 - c. Withdrawal of any offer of employment or placement.

Related

5.03 Reporting Criminal Charges

5.03A Acknowledgement of Criminal Charges Reporting

5.05 Volunteer

5.05A Volunteer Agreement Form