

3.31 - Criminal Record Check - Policy

Section: Human Resources
Subject: Criminal Record Check
Policy: 3.31
Approved: February 7, 2013
Reviewed: May 21, 2013
Revised: November 1, 2015

In general terms, a criminal record check is a search that is used to determine whether an individual has a criminal record. The search can be based on an individual's name and date of birth, or for much greater assurance, it can be based on fingerprints for positive identification. A criminal record check is performed against the national repository of criminal records maintained by the Royal Canadian Mounted Police (RCMP), which holds approximately 4.2 million records. Checks are also, in many cases, performed against a Canadian police service's local records.

At present, a criminal record check is a key part of background check programs for most educational institutions in Canada. Some provinces have legislation in place that mandates criminal record checks for employees of educational institutions.

Carlton Trail College shall insure that a criminal record check is provided by all new employees and volunteers effective the date of this policy. Furthermore, effective the date of this policy, all new employees and volunteers shall inform the President and CEO in all situations where they are charged with a criminal offence.

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An original, current (within one year) criminal record check, including a vulnerable sector check, is required from:

- any applicant being recommended for employment with Carlton Trail College
- any person wishing to act as a regular or ongoing volunteer for college-sponsored activities

The criminal record check as it pertains to recommendations for suitability of employment, or voluntarism includes:

- All criminal convictions, under *The Criminal Code of Canada*, *The Narcotics Control Act*, *The Controlled Drug and Substances Act*, 1996 and *The Food and Drugs Act*, 1985. Conviction means the final judgement on a verdict or a finding of guilty, or a plea of guilty. Conviction does not include a final judgement which has been reversed, set aside or otherwise rendered invalid.
- A search of the automated criminal record retrieval system maintained by the Royal Canadian Mounted Police to determine if the applicant 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*.

Failure to cooperate in providing a criminal record check or submission of an inaccurate, false, misleading or incomplete criminal record check constitutes grounds for termination of employment, refusal to offer employment, withdrawal of any offer of employment or volunteer position.

Applicants may attach a statement of explanation to the criminal record check submitted outlining relevant circumstances.

Criminal record checks submitted which include conviction will be assessed by the Senior Leadership Team, taking into consideration matters such as:

- the nature and particulars of the criminal conviction
- the age of the individual when the events in question occurred
- any extenuating circumstances as provided by the applicant
- the time that has elapsed between the conviction and the employment application, and the activities of the individual during that interim period
- the rehabilitative measures undertaken by the individual since the conviction and the commitment the individual has to rehabilitation and to refraining from criminal activities
- the relationship of the conviction to the position for which the person is applying

Any appeal of the decision of the Senior Leadership Team is to be made in writing to the President and CEO within fifteen days of the notification of the termination of employment, the refusal to offer employment or the withdrawal of any offer of employment.

Results of the criminal record check are to be kept confidential and maintained in a secure location filed separately from the employee's personnel file.

The applicant is responsible for any costs associated with the obtaining of the criminal record check.

Any employee who receives a pardon, or who 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 is to be returned to the employee upon request.

The following question and statement are to be included on all application forms utilized for the recruitment of staff:

Have you ever been convicted of an offence or do you currently have any charges pending under *The Criminal Code of Canada*, *The Narcotics Control Act*, *The Controlled Drug and Substances Act, 1996* or *The Food and Drugs Act, 1985*?

____ Yes ____ No

If yes, please indicate the nature of the offence(s), the date(s), and place(s) of the sentence(s) imposed (if applicable) as well as any pardon(s) received (if applicable).

I will provide the results of a criminal record search by the local city police or RCMP.

Furthermore, I have received and understood the provisions of Procedure 3.32 – Criminal Record check and Reporting Criminal Charges.

Signature: _____ Date: _____

When necessary, applicants who have not submitted a criminal record check may be placed for up to seven days on a temporary basis, pending the College's receipt of the results of their criminal record check. That time may be extended in exceptional circumstances by the President and President and CEO. Failure to provide the results of a criminal record check within the specified period of time shall result in the termination of employment of the temporary employee.

In situations where the applicant has submitted the original criminal record search form completed by the local city police or RCMP which indicates that a request for a criminal record search by fingerprints has been made, and that the applicant has provided satisfactory explanation of the need for the finger print verification, an extension of time may be granted.

In situations where the applicant is requesting casual employment, the results of the criminal record search must be submitted before any placement.

Reporting Criminal Charges

All employees and volunteers of the Carlton Trail College who have been required to provide a criminal record check are required to sign a statement indicating that they

have received a copy of these procedures and that they understand their provisions. (see above)

No later than two working days after having been charged with an offense, any person referenced in this procedural statement is to inform, orally, and subsequently in writing, the President and CEO of all charges laid.

A submission outlining relevant circumstances may be attached by the person to the written information.

Upon receipt of the information, the President and CEO or designate is to investigate the circumstances.

Failure to disclose charges, provide a written statement, or submission of inaccurate, false, or misleading statements, constitutes grounds for disciplinary action, up to and including termination of employment, in accordance with the provisions of the employee's contract of employment or refusal of permission to act as a volunteer for College-sponsored activities.

Subject to the provisions of *The Regional College Act*, and the provisions of the relevant Collective Agreement or contract of employment, the President and CEO may, transfer, reassign or terminate the employment of an employee who is not in compliance with the provisions of the procedures of this policy.

Any action taken by the President and CEO with respect to an employee is to be conveyed to the employee in writing, a copy of which is to be placed in the employee's personnel file.

Any appeal of the decision of the President and CEO is to be made to the College Board of Directors in accordance with the provisions of the employee's collective agreement, or where no collective agreement applies, within fifteen days of notification of the President and CEO's decision.

If, at the conclusion of all proceedings, a criminal record check confirms no conviction(s) resulting from the incident giving rise to the original charge(s), any documentation which has been placed in the employee's personnel file related to the charge(s) for which discipline has not been effected is, at the request of the employee, to be removed and destroyed.

Notwithstanding any of the above regulations, an employee may, at any time, seek legal advice or counsel from his/her employee group or from independent sources at the employee's expense. Should the employee so wish, he or she may be accompanied or represented by a representative of the employee or the appropriate employee group at any and all meetings that the employee attends regarding the process.