

Criminal Record Checks and First Nation Schools

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Updated September 2020

What should you know about criminal record checks?

It is imperative that all First Nations schools ensure that, at minimum, employees who work with children directly, or who have unsupervised access to children, have successfully completed a criminal record check.

Normally, written offers of employment for anyone who will be involved with children should include a criminal record check as a condition of employment.

This pamphlet outlines what First Nation schools need to know to address this issue. The information is separated for First Nations schools that have independent school status or provincial funding and those that do not, as the requirements and procedures may differ in each of those cases.

The information included in this brochure is NOT presented as, or intended to service as, legal advice. First Nations are encouraged to seek independent legal advice as required regarding their particular employment circumstances.



Information for First Nations Schools That Have Independent School Status or Are Provincially Funded

Background

For First Nations schools that are subject to the British Columbia Independent School Act or are provincially funded, employees are subject to the Criminal Records Review Act (CRRRA).

The CRRRA requires that individuals who work with children directly, or have unsupervised access to children, undergo a CRRRA (criminal records) Check. This can include:

- teachers
- custodians
- administrative support
- non-teaching staff
- principals.

Different processes may apply, depending upon whether or not the employee holds a Ministry of Education Teaching Certificate. Where an employee holds a Ministry Certificate, the Criminal Record Review process is administered through the Teacher Regulation Branch of the BC Ministry of Education. Where the employee or prospective employee does not have a Ministry of Education Teaching Certificate (such as education assistants or other staff), the First Nation school is responsible for getting the consent from the person to have the check completed.

When a person is employed by a school authority or offered employment with the school authority that involves working with children and they are not subject to a CRRRA check by the Teacher Regulation Branch, the individual must provide a criminal record check authorization to the school authority. Offers of employment should be conditional upon the authority receiving a satisfactory criminal record check.

All employees required to provide a CRRRA check must undergo a further check at least once every 5 years.

During a CRRRA check, the Criminal Records Review Program will carry out a review of records for offences most relevant to those working with children. Relevant offences include most violent and sexual offenses, as well as some drug offenses.

Process for Employee Record Checks – Independent Schools (for employees not holding a Ministry of Education Teaching Certificate)

Criminal Records Review Program

Each school must enroll in the online criminal record check service, eCRC (Form CRR020 found here: <https://www2.gov.bc.ca/gov/content/safety/crime-prevention/criminal-record-check/organization-registration/employee-organization-registration>)

The Criminal Records Review Program will confirm the enrolment of your school authority in writing and provide a unique link to direct your employees to the online service.

Employees will access the unique link to complete the Criminal Record Check Consent. The school authority will have to pay a \$28 processing fee within the online service for a criminal record check. It is up to the school authority whether to recover that charge from the employee or applicant. The employee's identity will usually be verified electronically.

Employees then may request to share their results between one or more organizations registered with the Criminal Records Review Program.

In the event an online application cannot be completed, for instance due to a failure of electronic identity verification, the Criminal Record Review Program will have provided the school authority with an Employee / Applicant Consent to a Criminal Record Check Package. The package must be completed by the school authority's authorized contact and the employee/applicant, and submitted in accordance with the directions found here:

<https://www2.gov.bc.ca/gov/content/safety/crime-prevention/criminal-record-check/forms-submission-instructions#Anchor 2>

Process for Employee Record Checks – Independent Schools continued ...

Where a paper consent is being completed by an employee/applicant, the school authority's authorized representative must verify the employee/applicant's identity by examining a primary and secondary piece of identification.

Primary identification includes:

- BC Driver's License or learner's license (must have your photo)
- BCID
- BC Services Card (must have photo)
- Canadian birth certificate
- Passport
- Canadian Citizenship Card
- Permanent Residence Card
- Canadian Record of Landing/Canadian
- Immigration Identification Record

Secondary identification includes:

- School ID card (student card)
- Bank card (only if applicant's name is on card)
- Credit card (only if applicant's name is on card)
- Foreign birth certificate (a baptismal certificate is not acceptable)
- Canadian or U.S. Driver's licence
- Naturalization certificate
- Canadian Forces identification
- Police identification
- Foreign Affairs Canada or consular identification
- Vehicle registration (only if applicant's signature is shown)
- Picture employee ID card
- Canadian Firearms License (PAL)
- Social Insurance Card (new style without signature strip not acceptable)
- BC Care Card
- BC Services Card (with or without photo)
- Secure Certificate of Indian Status
- Parole Certificate ID
- Correctional Services Conditional Release Card

The school authority must submit the payment for the Criminal Record Check to the CRRP. The school authority may require the employee/applicant to pay for the CRRP Check before it is processed on the school authority's account.

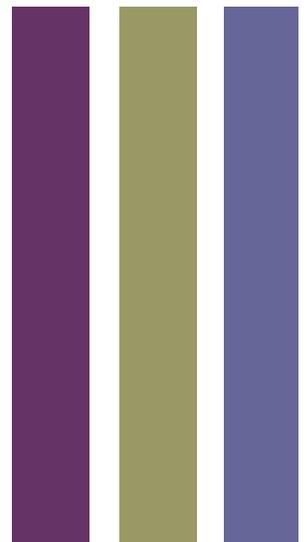
Fingerprinting

Initial results of the CRRP check may indicate the existence of a criminal record or outstanding charge for a relevant offence. Verification of the employee's/applicant's identity may be required, for example, if a combination of their name, gender or birth date is the same or similar to a known offender's name, gender or birth date.

If fingerprint verification of the employee's/applicant's identity or results is required, the Criminal Records Review Program will communicate directly with the employee/applicant, advising them fingerprints are required and describing what to do and where to go to submit their fingerprints (usually a local police detachment, whether RCMP or municipal police).

The police will charge individuals a fee for submitting fingerprints.

Verification of identity or confirmation of results will take additional time. Four to eight additional weeks following the date of fingerprints submission is not unexpected.



Information for First Nation Schools That Do Not Have Independent School Status or Are Not Provincially Funded

Background

For First Nations Schools that are not covered by the Criminal Records Review Program (i.e. they are not subject to the Independent School Act or provincially funded), criminal record checks can, and still should, be required. There are two kinds of checks.

- A “Criminal Record Check” verifies whether an individual has a criminal record and provides the applicant information that can be legally disclosed.
- A “Vulnerable Sector Check” is an enhanced criminal record check that provides information about whether a person has a criminal record and any pardons for sexual offences, and also searches local police records.

Criminal Record Checks and Vulnerable Sector Checks are not required for employees of First Nation schools that are not subject to provincial regulation or receiving provincial operating funds.

However, it is highly advisable for employees to have a Criminal Record Check, and for employees working closely with children to have a Vulnerable Sector Check.

Where an employee holds a Ministry of Education Teaching Certificate, the Criminal Record Review process is administered through the Teacher Regulation Branch. Where the employee or prospective employee does not have such a Certificate, the school is responsible for getting the consent from the person to have the check completed.

Good practice would be for employees to undergo a Criminal Record Check at least once every 5 years.

Process for Police Information Check

Criminal Record Check or a Vulnerable Sector Check

Criminal Record Check

To obtain a Criminal Record Check, the individual should be directed to a local police station to fill out an application.

The individual will need to specify their job title and name of the school. They will also need to provide their full name, date of birth, sex, mailing address, phone number, and applicable fees.

Fingerprinting – Criminal Record Check

Fingerprints may have to be submitted as part of the process once a query based on name and date of birth is conducted. If fingerprints are required, they can be taken at a local police station or with an accredited company such as the Canadian Corps Commissionaires (ph. 1-877-322-6777).

Vulnerable Sector Check

In British Columbia, Vulnerable Sector Checks are carried out by the Criminal Records Review Program. Schools requesting a Vulnerable Sector Check must ensure the process established by that Program is followed for the check to be completed.

When a Vulnerable Sector Check is required, the school authority may be required to provide information stating that the organization is requesting that a Vulnerable Sector Check be done, the nature of the position being applied for, and a description of how the position deals with children or vulnerable persons.

A Vulnerable Sector Check is completed based on the name and date of birth of the applicant.

The check may include:

- criminal convictions, outstanding criminal charges and warrants, and other judicial orders
- a query of CPIC investigative and intelligence records and local police records.

There is a minimum \$25 base fee.

Once the Vulnerable Sector Check is completed, the results will be sent to the employee or to the requesting employer.

Fingerprinting – Vulnerable Sector Checks

If the Vulnerable Sector search is inconclusive, a fingerprint-based search will be required. The employee will have to visit the nearest police service to have their fingerprints taken electronically. If the police service is not equipped to take electronic fingerprints, the employees will be referred to accredited private fingerprinting companies or other partners to take fingerprints on their behalf. There will be an additional fee for fingerprinting services.

Results can take several weeks where there is no fingerprints match. If there is a match to a fingerprint record in the RCMP database, or if the employee's fingerprints need to be processed manually for any reason, the processing time could be significantly longer.

Note for Non-Independent First Nations Schools

Please note that any school interested in accessing Reciprocal Tuition from the Province of BC must meet the following requirement:

- The school's teachers and staff have undergone a criminal record check if they:
 - work with children directly; and/or
 - have, or potentially have, unsupervised access to children.

More information about Reciprocal Tuition is available in the *Reciprocal Tuition Handbook for Non-Independent First Nations Schools*. 2020 Edition. Available at www.fnesc.ca.

A Final Consideration for All First Nation Schools

First Nation schools and their School Governing Authorities are also encouraged to consider whether criminal record checks should be requested for volunteers who will have unsupervised access to children.

Concluding Comments

FNESC and the FNSA strongly recommend that all First Nation schools ensure that employee record checks have been effectively addressed. This is a key aspect of schools' efforts to promote safe environments for all students and to promote confidence for parents and the community. FNESC and the FNSA would be pleased to provide additional support if requested.

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