

Policy History
Policy No. AR4
Approving Jurisdiction: President
Administrative Responsibility: Provost and Vice President Academic
Effective Date: January 2007

Criminal Record Review Policy

Purpose

To establish who must apply for a criminal record review and the process involved.

Scope

Applicants to programs at Kwantlen Polytechnic University requiring a criminal record review.

Principles – Section 1

1. Kwantlen Polytechnic University has a requirement for criminal record reviews for applicants and students as follows:

PRIOR TO ADMISSION TO PROGRAMS INVOLVING WORK WITH CHILDREN OR OTHER VULNERABLE PERSONS

2. Under the general common law duty of care the University requires criminal record reviews for applicants to program areas that involve working with children or other vulnerable persons.
3. Programs with this requirement will be identified in the calendar.
4. Offences under the Youth Offences Act are not open under searches done under this section.
5. Applicants to programs which require a criminal record review must request such a review through their local police department.
6. Any person with convictions or unresolved criminal charges in the following areas will not be admissible to the program:
 - a. the physical or sexual abuse of children or other vulnerable persons;
 - b. any crimes involving children (e.g. contributing to the delinquency of a child);
 - c. other convictions relevant to working with children or other vulnerable persons.

7. Persons with criminal records other than the above will be assessed using the following criteria:

- a. number and type of convictions;
- b. time between past criminal conviction and the present;
- c. age and circumstance of offender at time of offence;
- d. accomplishments of person since receiving conviction;
- e. the nature of the offence contained in the criminal record and job description duties expected of the employee, volunteer or students.

Procedures

1. The applicant will be informed of the Criminal Record Review Policy.
2. At the time of conditional acceptance into the program, the prospective student will receive a copy of this policy on Criminal Record Review and a Consent to Release Information Form.
3. The prospective student must personally take the form to their local police department and request a review.
4. Where a student may have a record and fingerprint verification is required, the student is responsible to submit their fingerprints to the R.C.M. Police, Ottawa, in accordance with direction given by their local police department. There may be up to a four to eight week delay between fingerprint submission and a final report. The student will not receive final acceptance into a program until this step is complete. This may result in a delay in practicum placement.
5. A copy of the results of the review will be mailed to the University Registrar by the police department.
6. All records will be confidential.
7. Results of Criminal Record Review will be kept separate from the student's file.
8. The appropriate Dean will review the information using the criteria listed above. If necessary, the Dean will consult the program Coordinator. The Dean will make the final decision as to the admissibility of the student.
9. A student whose criminal record is evaluated as acceptable will be mailed a notice of final acceptance into the program.
10. Where a criminal record prevents a student from entering the program, the Dean will inform the student that he/she is not eligible to enter the program due to the findings of the Criminal Record Review. The findings of the review will be discussed with the prospective student at the student's request.
11. The student has the right to the normal University process for appeal. (Policy ST3 *Grade Appeals*)

12. A copy of the Criminal Record Review will be given to the student by the University Registrar, to present to the person responsible for the review of the Criminal Record Review at each practicum setting not covered by the Criminal Records Review Act.

Principles – Section 2

PRIOR TO PRACTICUM PLACEMENT INVOLVING WORK WITH CHILDREN

1. The *Criminal Records Review Act*, S.B.C. 1995, c.37 (the "Act"), is legislation that requires employees working with children in agencies that are operated, licensed or receive operating funds from the government to undergo criminal record searches. Offences under the Youth Offenders Act will be open under criminal record searches done under the Criminal Records Review Act. While the Act has significant impact in some program areas, it has no direct application to the University in relation to its students.
2. The Act does however have an indirect application in relation to University programs under which students may perform practicums with employers who fall within the general provisions in the legislation.
3. Many practicum agencies require students to provide criminal record search information before allowing practicum placement. The compliance requirements fall to the employer and not to the University. However, in order to ensure that students find suitable practicum placements, the University is aware of the requirements in the Act and will facilitate the flow of paperwork from the students to the placement agency. Further, because students with unsuitable records may be rejected from practicum placement, the University will alert students, in advance of registration, of the criminal check requirement. Where completion of a practicum is a requirement for completion in a program area, the University will advise students, in advance of registration, that inability to meet the practicum requirements due to failed criminal record checks will result in an incomplete in meeting program requirements for graduation.
4. The requirements of the *Criminal Records Review Act* may require that students undergo this additional criminal record review subsequent to that required under Section 1 of this policy.
5. The legislation contains a comprehensive system for performing checks and assessing records against specific offences. It also contains procedural protections which attempt to protect individuals from unfair assessments, i.e. it is a complete "package". The record checks are processed by the registrar as defined in the act who reviews the record in relation to specific offenses which are listed as a schedule to the legislation. If an individual has an outstanding charge or has been convicted of one of the listed offenses, the registrar then refers the matter to an adjudicator to determine whether or not the individual poses a risk to children. Determinations may be appealed through the registrar.

Procedures

PROCEDURE as outlined in The Criminal Records Review Act S.B.C. 1995 c.37, Part 2, No. 4

1. When the Registrar receives a criminal record check authorization, the Registrar must carry out a criminal record check with respect to the individual who authorized the criminal record check.

2. If the Registrar determines that the individual who is the subject of the criminal record check has an outstanding charge relating to a relevant offence or has been convicted of a relevant offence, the Registrar must promptly
 - a. refer the matter to an adjudicator to determine whether the conviction or outstanding charge indicates that the individual presents a risk of physical or sexual abuse to children; and
 - b. notify the individual and the employer, governing body or minister referred to in Part 5, as the case may be, that the individual has an outstanding charge relating to a relevant offence or has been convicted of a relevant offence and that the matter has been referred to an adjudicator.
3. In making a determination under subsection (2) (a), the adjudicator must consider the following:
 - a. whether the behavior associated with the relevant offence would, if repeated, pose a threat of physical or sexual abuse to children;
 - b. the circumstances of the offence including the age of the individual at the time of the offence and the existence of any extenuating circumstances;
 - c. any other factors that the adjudicator considers relevant including, without restriction, the time elapsed since the occurrence of the offence or alleged offence, subsequent actions of the individual, the likelihood of the individual repeating a similar kind of behavior any attempts at rehabilitation.
4. The adjudicator must promptly notify the following persons of the determination under subsection (2) (a)
 - a. the registrar;
 - b. the individual;
 - c. the employer, if the individual is an employee or an applicant for employment;
 - d. the governing body, if the individual is a registered member or an applicant for registration;
 - e. the Minister of Women's Equality, if the individual is a child care provider or an applicant as defined in Part 5.
5. The adjudicator must provide written reasons for the determination under subsection (2) (a) to a person referred to in subsection (4), if the person so requests.

RELATED POLICIES:

ST3 Grade Appeals