



REPORT

To: Chair and Directors

Report Number: ADM-BRD-003

From: Kelsey Bates, Deputy Corporate Officer

Date: July 31, 2020

Subject: Criminal Record Check Policy Amendment

The following motion was deferred from the October 24, 2019 Regional Board Meeting and is being presented to the Regional Board for its consideration:

RESOLUTION ON THE FLOOR:

RD/19/10/15 (24)

MOVED Director Rose, SECONDED Director Heiberg,

That the Criminal Record Check Policy be amended to:

1. Add a discretionary ability for the Chief Administrative Officer (CAO) to request criminal record checks on new and/or additional positions in future that are not listed in the Policy;
2. Update and clarify the definitions of "designated positions" at the PRRD and the "vulnerable sector" to reflect organizational roles and current legislation;
3. Add a clause that employees who receive a criminal record check be compelled to report any new infractions to the CAO for review and consideration; and
4. Update the list of positions that require criminal record checks upon hire.

It is recommended that the Regional Board defeat the resolution above in consideration of the updated recommendation below:

RECOMMENDATION: [Corporate Unweighted]

That the Regional Board amend the Criminal Record Check Policy to:

1. Update and clarify the definitions of "designated positions" at the PRRD and the "vulnerable sector" to reflect organizational roles and current legislation;
2. Add a clause that states that employees who are required to receive a criminal record check be compelled to report new infractions, that affect bona fide occupation requirements of their position, to the Chief Administrative Officer for review and consideration; and,
3. Update the list of positions that require criminal record checks.

BACKGROUND/RATIONALE:

On October 24, 2019, the Regional Board passed the following resolution:

MOVED, SECONDED, and CARRIED

That consideration of Resolution No. RD/19/10/15 (24) which states:

That the Criminal Record Check Policy be amended to:

1. Add a discretionary ability for the Chief Administrative Officer (CAO) to request criminal

- record checks on new and/or additional positions in future that are not listed in the Policy;
 2. Update and clarify the definitions of “designated positions” at the PRRD and the “vulnerable sector” to reflect organizational roles and current legislation;
 3. Add a clause that employees who receive a criminal record check be compelled to report any new infractions to the CAO for review and consideration; and
 4. Update the list of positions that require criminal record checks upon hire.
- be deferred until the Regional Board has been provided with clarification on the proposed policy amendments’ alignment with the BC Human Rights Code and the circumstances under which the completion of criminal record checks would be at the CAO’s discretion.

The Regional Board adopted a Criminal Record Check Policy on June 6, 2016. As part of the comprehensive policy review identified in the Board’s Strategic Plan, the Criminal Record Check Policy has been amended to reflect current PRRD positions that require checks. A clause has also been added to compel employees to report new infractions that affect bona fide occupation requirements of their position, which may arise during the five-year interval between checks.

All discovered or reported charges will be considered as they relate to the position the employee holds, considering bona fide occupational requirements, and with consideration to the *Human Rights Act* and more specifically the *Criminal Records Review Act*. The PRRD sought legal counsel on this matter to ensure it complied with the BC Human Rights Code.

The BC Human Rights Code does not go into great detail on the matter, save to say that a person must not “(a) refuse to employ or refuse to continue to employ a person, or (b) discriminate against a person regarding employment or any term or condition of employment ... because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.” Because the PRRD’s Policy specifically speaks to “bona fide occupations requirements”, which are related to the employment, it is within the parameters of the Code.

The *Criminal Records Review Act* states that municipalities are exempt from the requirement to “ensure that every individual who is hired for employment involving work with children or work with vulnerable adults and every employee who works with children or works with vulnerable adults undergoes: (a) a criminal record check; or (b) a criminal record check verification”. Although the PRRD is exempt from performing such checks, it is in the best interest of the organization that its staff are properly vetted for the safety of the community and the protection of the PRRD.

Criminal Record Checks are only required for positions where certain criminal convictions violate a reasonable and bona fide requirement of the job or where employees are working with children or vulnerable peoples.

Additions to the Criminal Record Check Policy are highlighted in yellow.

ALTERNATIVE OPTIONS:

1. That the Regional Board provide further direction.

STRATEGIC PLAN RELEVANCE:

- ☒ Organizational Effectiveness
- ☒ Comprehensive Policy Review

FINANCIAL CONSIDERATION(S):

The cost of a Criminal Record Check is \$50. Depending on the nature of the check (employment vs. vulnerable sector check), an additional \$30 fee may be incurred to run fingerprints.

All costs for the checks are reimbursable to the candidate/employee upon submission of a receipt.

COMMUNICATIONS CONSIDERATION(S):

Employees who are required to have a criminal record check, as per Appendix A of the Policy, will be asked to complete a criminal record check upon adoption of the amended policy. All new hires for positions in Appendix A will be required to have a check submitted within 30 calendar days of hire, which will be communicated through offer letters as a subject of employment.

OTHER CONSIDERATION(S):

None.

Attachments:

1. Draft Amended Criminal Record Check Policy