

# Criminal Background Check Policy

## Purpose:

To uphold the Kari Koskinen Manager Background Check Act at Fond du Lac Tribal & Community College.

## Policy Language:

Minnesota Statutes Sections 299C.66 to 299C.71 (a.k.a. the Kari Koskinen manager background check act...herein referred to as "The Act"), enacted in 1995, require background checks on managers of apartment buildings and other dwellings. The term manager includes any individual "who has or would have the means, within the scope of the individual's duties, to enter tenants' dwelling units." In keeping with the spirit of the Act, this process is to be used at Fond du Lac Tribal and Community College with residence halls or other dwelling units. It is to be applied to any person with a key or other means of access to a student room, including resident assistants, maintenance workers, janitors, and cleaning personnel.

Fond du Lac Tribal and Community College also requires a background check on all coaches, both paid and volunteer, who work with our athletic programs.

## Procedure

1. Hiring authorities ask applicants or employees listed above to read, complete, and sign the Data Privacy Notice and Consent Forms. Failure of applicants or employees to sign the forms could result in withdrawal of the employment offer for applicants, or employees seeking to transfer/bid on a covered position.
2. If the applicant/employee has lived in Minnesota for less than five years, a national criminal records search must be conducted by the Minnesota Bureau of Criminal Apprehension (BCA) and the Federal Bureau of Investigation (FBI). In these situations, the college/university must provide a set of the applicant's/employee's fingerprints along with the Data Privacy Notice and Consent forms to the BCA (fingerprinting forms and processes are available through campus security offices or through local law enforcement agencies). The fingerprint card should include the full name, date of birth, and identifying information of the applicant/employee, in addition to the name and address of the individual responsible for making the hiring decision.

3. The Data Privacy Notice and Consent forms, along with a certified check from the college/university made payable to the BCA for \$15.00, and a stamped, self-addressed envelope made out to the person who will be making the campus hiring decision, should be forwarded to the BCA at the following address:

CJIS Section  
1246 University Ave.  
St. Paul, MN 55104  
(telephone 651/642-0670)

If a national criminal records search is required in accordance with #2 above, an additional \$24.00 must be submitted to the BCA along with the rolled set of fingerprints. NOTE: The Act requires that the employer pay for the security background check.

4. After conducting its review, the BCA will notify the employer whether the applicant/employee is eligible for employment/reassignment. Felony offenses that preclude employment/reassignment include all convictions for attempts to commit, or commission of, the following:

first, second-, and third-degree homicide; first and second degree manslaughter; criminal vehicular homicide and injury; first, second, third, fourth, and fifth degree assault; kidnapping; first, second, third, and fourth degree criminal sexual conduct; simple robbery; aggravated robbery; false imprisonment; theft; burglary; terroristic threats; first degree arson; and any violation of any level of the harassment and stalking statute.

Additionally, the college/university must not hire an applicant, or reassign a current employee, to a position covered by the Act if the college/university independently knows that the applicant/employee has been convicted of one of the above crimes.

### **Failure to Pass Security Check**

#### **Applicants**

Applicants who fail the security check shall have offers of employment withdrawn. Applicants hired pending the results of the security check shall have their employment terminated. Prior to withdrawal of employment offers, Fond du Lac Tribal and Community College may wish to explore other options such as possible employment in other positions that are not covered by the Act.

#### **Current Employees**

Current employees who are seeking to transfer to or bid on a covered position and fail the security check will not be allowed to exercise bidding rights, or to accept reassignment to the covered position.

### **Maintenance of records**

Records pertaining to background checks should be placed in employee personnel files and maintained in accordance with campus records retention schedules.

Applicant/Employee Rights: Applicants/employees have the following rights:

1. The right to be informed that Fond du Lac Tribal and Community College will request a background check on a manager (as defined in Minnesota Statutes Chapter 299C.67, Subdivision 4) to determine whether the manager has been convicted of a crime specified in Minnesota Statutes Chapter 299C.67, Subdivision 2;
2. The right to be informed by Fond du Lac Tribal and Community College of the response to the background check, and to obtain from Fond du Lac Tribal and Community College a copy of the background check report;
3. The right to obtain from the Bureau of Criminal Apprehension any record that forms the basis for the report;
4. The right to challenge the accuracy and completeness of information contained in the report or record under Minnesota Statutes Chapter 13.04, Subdivision 4; and
5. The right to be informed by Fond du Lac Tribal and Community College if the application to be employed by the college, or to accept reassignment to the covered position, has been denied because of the result of the background check.

Equivalent Background Checks: It is not necessary to conduct an additional background check if the applicant has had one of the following equivalent checks done and the results of the check are documented:

1. Background check conducted by the Department of Human Services under Sections 144.057 and 245A.04.
2. Check conducted by Fond du Lac Tribal and Community College for the applicant in a similar position.
3. Check performed by a private business or local law enforcement agency if it is at least as broad as checks performed by the Bureau of Criminal Apprehension and is conducted within 10 days of receiving the signed forms discussed above.

### **Does This Policy Have A Procedure?**

Yes - Imbedded within the policy.

List Related Policies, Procedures Or Forms:

[Sec. 299C.66 MN Statutes](#) – Kari Koskinen Manager Background Check Act

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**Date Policy was Originally Adopted:** Unknown

**Responsible Division/Author:** Human Resources/EHRO

**Review Date(s):**