



## **ADMINISTRATIVE PROCEDURES**

### **CRIMINAL BACKGROUND CHECKS AND OFFENCE DECLARATIONS (Policy Statement: Criminal Background Checks and Offence Declarations)**

#### **Purpose**

To maintain a safe learning environment for students of the Algonquin and Lakeshore Catholic District School Board, in compliance with Ontario Regulation 521/01, as amended by Regulation 323/03.

#### **References**

*Education Act and Regulation 521/01, as amended by Regulation 323/03.*

*Police Records Checks Reform Act, 2015*

*Ontario Human Rights Code*

#### **Procedures**

##### **1. Definitions**

**1.1 “Criminal Record Check”** means, a document concerning an individual that:

- a) was prepared by a police force or service from national data on the Canadian Police Information Centre (CPIC) database within six (6) months before the day the Board collects the document; and
- b) contains information concerning the individual’s personal criminal history.

**1.2 “Vulnerable Sector Check”** means a document concerning an individual that:

- a) was prepared by a police force or service from national data on the Canadian Police Information Centre (CPIC) database within six (6) months before the day the Board collects the document; and
- b) provides information concerning the individual’s police record including Criminal Code (Canada) convictions, pardoned sexual offences, records of convictions

under the Controlled Drug and Substances Act, Narcotic Control Act and Food and Drugs Act and all outstanding warrants and charges.

**1.3** “**Offence Declaration**” means, a written or equivalent declaration signed by an individual listing all of the individual’s convictions for offences under the *Criminal Records Act (Canada)* up to the date of the declaration that are not included in the Criminal Background Check or the last Offence Declaration collected by OESC on behalf of the Board or by a school or department of the Board.

**1.4** “**Service Provider**” means an individual who is not an employee of the Board and who comes into direct contact with students on a regular basis at a school site of the Board in the normal course of:

- (a) providing goods or services under contract with the Board,
- (b) carrying out his or her employment functions as an employee of a person who provides goods or services under contract with the Board, or
- (c) providing services to a person who provides goods or services under contract with the Minister.

**1.5** “**Other Adults**” **Having Regular and Direct Contact with Students** includes:

- a) Trustees
- b) Students attending university or college programs which require practicum or coop placements in schools;
- c) Parish priests and priest chaplains
- d) St. John Ambulance
- e) Big Brothers and Big Sisters of Canada
- f) Persons eighteen (18) years of age or over having direct and regular contact with students
- g) School Volunteers
- h) Provincial Organizations that provide services to schools;  
including but not limited to:
  - 1) Public Health Departments
  - 2) Community Care service providers
  - 3) Children’s Mental Health Centres
  - 4) Day Nurseries
  - 5) Family and Children’s Services Agencies
  - 6) Provincial School Authorities

## 2. Requirements

### 2.1 Current Employees

- 2.1.1 If the employee became a member of the Ontario College of Teachers (OCT) after December 31, 1998, and commenced employment with the Board before April 1, 2002, the Board shall collect an Offence Declaration from the individual by September 1 of each year in which the individual is employed by the Board, commencing in 2002.
- 2.1.2 If the employee commenced employment with the Board prior to April 1, 2002 and is not an individual described in 2.1.1, the Board shall collect:
- a) a Criminal Background Check (CPIC) by July 31, 2003 if the individual continues to be employed by the Board after July 31, 2003.
  - b) an Offence Declaration from the individual by September 1 of each year in which the individual is employed by the Board, commencing in 2004.
- 2.1.3 As of September 2004, all employees are required to provide an Offence Declaration by September 1 of each year in which the individual is employed by the Board.
- 2.1.4 Staff on an approved leave of a year or more must provide the Board an Offence Declaration upon their return.

### 2.2 New Employees

- 2.2.1 All applicants for employment with the Board will be advised that it will be a condition of any offer of employment that the applicant provide an original document of an appropriate and acceptable Police Records Check in respect of the individual (date within six (6) months of the date of submission) before the day the individual commences employment with the Board. The cost of the Police Record Check is the sole responsibility of the applicant.
- All positions of trust or authority over vulnerable persons require a Vulnerable Sector Check. Human Resource Services will identify to applicants the type of Police Record Check required.
- 2.2.2 The original Police Record Check should be delivered in person or forwarded in a sealed envelope marked "confidential" to the Superintendent of Human Resources or designate. Where a Police Record Check must be returned to an applicant, the original must be presented to the Human Resources Department. The Police Record Check will be photocopied, if necessary, and will be verified for authenticity by a Human Resource designate.

2.2.3 Anyone who has been a resident outside of Canada for more than three (3) months in the previous twelve (12) may be required to provide the equivalent Police Record Check from the foreign jurisdiction(s) in addition to the Police Record Check using the Canadian Police Information Centre.

2.2.4 In the event that the information provided by the applicant through the Police Record Check determines that he/she:

- i) has outstanding charges or prior convictions for which a pardon has not been granted or revoked which indicate, in the Administration's opinion, that the applicant could pose a threat to students;
- ii) has made a false declaration on their application;
- iii) declines to provide verification of a criminal record as required by Board policy;

the Superintendent of Human Resources or designate will withdraw the Board's conditional offer of employment.

2.2.5 The Board shall collect an Offence Declaration from the individual annually for each year in which the Board employs the individual after submission of the original Police Record Check. Each year, the Board shall issue a memo with directions for completion of the Offence Declaration.

2.2.6 Emergency Provision

Normally, a candidate shall not commence employment with the Board until a current Police Record Check has been supplied. Only in an exceptional case will a person be permitted to commence employment with the Board before the Board has received the verification. In such a case, the candidate will be required to provide an "Offence Declaration" which may, at the Board's sole discretion, permit the candidate to commence employment for a maximum of twenty (20) working days prior to the submission and receipt of the Police Record Check. Before any such exception is made, a binding agreement shall be entered into between the employee and the Board, ensuring that the verification will be provided without delay in a timely manner. This agreement will preserve the Board's right to revoke the offer of employment should the Offence Declaration provided by the employee prove to be false or misleading in any respect.

## **2.3 Service Providers**

2.3.1 All service providers doing business with the board will not engage any employee or other person to perform services for the service provider who may come into direct contact with students on a regular basis, or who may have access to student information to provide services hereunder, where such employee or other person has been charged with or convicted of an offence the nature of which may be construed as jeopardizing the safety and well-being of the students of the Board.

- 2.3.2 The service provider will retain on file a criminal background check covering convictions, charges and occurrences under the Criminal Code, the Narcotics Control Act, and any other convictions, charges and occurrences which would be revealed by the long version Vulnerable Persons search of the automated Criminal Records Retrieval System maintained by the RCMP (“Criminal Background Check”), prior to the occurrence of such possible direct contact with students.
- 2.3.3 The service provider will collect and retain on file an Offence Declaration in a Board approved form for every employee of the service provider or other person who will perform services for the service provider who may come into direct contact with students on a regular basis or who may have access to student information, prior to the occurrence of such possible direct contact or prior to having access to student information on or before September 1<sup>st</sup> each year thereafter.
- 2.3.4 The Board shall be entitled to review the Criminal Background Checks and Offence Declarations for any service provider upon 48 hours written notice. In the event that either the Criminal Background Check or an Offence Declaration reveals a charge or a criminal conviction which is not acceptable to the Board in the circumstances then the service provider will prohibit the employee of the service provider or other person who performs services for the service provider from providing services to the Board without prejudice to any other rights which the Board may have in the purchasing arrangements with the service provider.
- 2.3.5 The service provider will use a third party to conduct criminal reference checks for onsite employees or contractors.
- 2.3.6 Additionally, where a service provider having direct contact with students on a regular basis is a sole proprietor or where the owner is in direct contact with students on a regular basis, the service provider will be required to provide an original Vulnerable Sector Police Records Check for this individual current within three years to the Board.
- 2.3.7 School Administration will check Identification Cards (and photo-identification) of service providers on a regular basis, or collect and retain Vulnerable Sector Police Records Checks current within three years, as applicable under this procedure.

## **2.4 “Others Adults” Having Direct and Regular Contact with Students**

- 2.4.1 Effective September 1, 2005, all “other adults” having direct contact with students on a regular basis will be required to produce an original Vulnerable Sector Police Records Check along with an identification card which clearly identifies them as an employee of the organization, or proof from their organization that they are in

compliance with the Regulation in accordance with their organization's standards and practices.

- 2.4.2 School volunteers having direct contact with students on a regular basis will be required to provide an original Vulnerable Sector Police Records Check current within three years.
- 2.4.3 Representatives of Provincial Organizations that provide services to schools are required to provide some form of letter or certification that confirm that they are in compliance with the Regulation in accordance with their organization's standards and practice.
- 2.4.4 School Administration will check Identification Cards (and photo-identification) of "other adults" on a regular basis, or collect and retain Vulnerable Sector Police Records Checks current within three years, as applicable under this procedure.

## **2.5 Retention**

The Board shall retain an original or a true copy taken from the original Police Record Check by the Board designated contact or designate. Completed Police Record Check and offence declarations will be filed in a secure location in accordance with Regulation 521/01, except in the case where an organization provides confirmation that they are in compliance with the Regulation in accordance with their organization's standards and practices.

## **2.6 Adjudication**

- 2.6.1 Where evidence is received of a criminal conviction for which a pardon has not been granted, the Board will convene an adjudication team that will consist of at least two Supervisory Officers (one of which will be a Superintendent of School Effectiveness) and the Superintendent of Human Resources. Other administrative personnel may be added to the team, from time to time, depending on the nature of the offence(s) and the position of the individual. In the adjudication of the offence(s) the Board Team will consider at least the following factors in determining an appropriate course of action:
  - a) Nature of Offence(s);
  - b) Number of convictions, and time frame involved where there are a number of convictions;
  - c) Repeat Offences;
  - d) Length of time since offence(s);
  - e) Did the offence(s) involve children and/or sexual activity and/or violence and/or acts of dishonesty;
  - f) Was alcohol or illegal drugs a factor in commission of offence(s);
  - g) Employment history with the Board (if relevant);

- h) Was offence(s) committed while employed by the Board (if relevant);
- i) Age at the time of offence(s);
- j) Attitude towards offence(s);
- k) Treatment, counseling or other services or steps taken to rehabilitate since offence(s);
- l) Likelihood offence(s) will be repeated;
- m) Degree of co-operation with investigation;
- n) Current supporting documentation such as references, medical reports, etc.;
- o) If employee is a teacher, relevance of offence(s) to teacher duties as set out in the Education Act and Regulations (if relevant);
- p) If employee is not a teacher, relevance of offence(s) to their employment duties;
- q) Does offence(s) require any action pursuant to legislation (including notification of the Ontario College of Teachers) (if relevant);
- r) Current supporting documentation such as references, medical reports, etc

2.6.2 The Board will gather sufficient information to make an informed decision about the conviction and the impact it bears on the ability of the individual to fulfill the role and responsibilities, as well as the impact on the reputation of the Board.

2.6.3 The Superintendent of Human Resources, or designate, will request a letter of explanation from the individual regarding the circumstances of the criminal code conviction. A private interview may be held between the individual and the Superintendent of Human Resources.

2.6.4 Action may include:

- a) In the case of an employee, action taken may include discipline up to and including dismissal, and/or withdrawal of offer of employment, and shall be in compliance with other Board policies, collective agreements and legislation.
- b) In the case of a service provider, action may be taken up to and including permanent removal of the service provider.
- c) In the case of “other adults”, action may be taken up to and including permanent denial of access to students for the “other adult.”

## **2.7 Consequences of Non-compliance**

- 2.7.1 Employees who fail to provide a an appropriate Police Record Check or an Offence Declaration by the required date may be subject to:
- i. Suspension without pay until the Offence Declaration is submitted;
  - ii. Withdrawal of offer of employment; or
  - iii. Discharge from employment.

- 2.7.2 A Service Provider who fails to comply with the Police Record Check requirements of the Board may be restricts from providing goods and/or services to the Board.
- 2.7.3 An “Other Adult” who fails to provide a Police Record Check either through their organization or independently through the Board will be denied access to students either as schools or off-site Board sanctioned activities pending compliance, or experience such other appropriate Board intervention as the law may allow.

**Appendices**

**Forms**

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