



Niagara Catholic District School Board
CRIMINAL BACKGROUND CHECK

ADMINISTRATIVE OPERATIONAL PROCEDURES

Section 200 – Human Resources

No 302.6.7

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In keeping with the Mission, Vision, and Values of the Niagara Catholic District School Board, the following are Administrative Operational Procedures for Criminal Background Check.

PREAMBLE

The Board has the responsibility to provide a safe and secure working and learning environment for students and employees. The Board is in a position of trust and must strive to protect the well-being of students.

Therefore the Board shall implement the requirements for the collection of personal information. The Board will adjudicate the possibility of risk to students and staff, where a potential employee has a criminal record and shall not employ persons or continue to employ persons with a criminal record which demonstrates a risk to students or staff.

DEFINITIONS

As per Regulation 521/01 of the Education Act, as amended by Regulation 322/03

"Criminal Background Check" means, in respect of a Board, a document concerning an individual:

- a. That 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. That contains information concerning the individual's Personal Criminal History. "Offence Declaration" means, in respect of a Board, a written declaration signed by an individual listing all of the individual's convictions for offences under the Criminal Code (Canada) up to the date of the declaration:
 - i. That are not included in a criminal background check collected by the Ontario College of Teachers (OCT) after December 31, 1998 or in the last criminal background check collected by the Board under this regulation; and
 - ii. For which a pardon under Section 4.1 of the Criminal Records Act (Canada) has not been issued or granted.

"Personal Criminal History" means, in respect of an individual, information on criminal offences of which the individual has been convicted under the Criminal Code (Canada) and for which a pardon under Section 4.1 of the Criminal Records Act (Canada) has not been issued or granted to the individual.

"Vulnerable Sector Screening" means, in respect of a Board, a document concerning an individual:

- i. That was prepared by a police force or service from national data on the Canadian Police Information Centre (CPIC) database and from local police service records, within six (6) months before the day the Board collects the document; and

- ii. That contains information concerning the individual's personal criminal history and
- iii. That contains information resulting from a criminal record search of data maintained by the Royal Canadian Mounted Police for sexual offences for which a pardon has been granted or issued.

CRIMINAL BACKGROUND CHECKS FOR CURRENT EMPLOYEES

All current employees will provide a Criminal Background Check in accordance with Regulation 521/01 as amended by Regulation 322/03.

Requirements

The "Collection of Personal Information Regulation" will require the Niagara Catholic District School Board to do the following:

Current Employees

- a. 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.
- b. If the employee commenced employment with the Board prior to April 1, 2002 and is not an individual described in paragraph (a), the Board shall collect:
 - i. A Criminal Background Check (CPIC) by July 31, 2003 if the individual continues to be employed by the Board after July 31, 2003.
 - ii. An Offence Declaration from the individual by September 1 of each year in which the individual is employed by the Board, commencing in 2004.

RETENTION OF DOCUMENTATION

The Board shall retain an original or a true copy taken from the original police criminal record check or police vulnerable sector check by the Director or designate. Completed criminal background checks and offence declarations will be filed in a separate and secure location in accordance with Regulation 521/01 as amended by Regulation 322/03)

ADJUDICATION PROCESS

Where evidence is received of a criminal conviction, the Director or designate will consider at least the following factors in determining an appropriate course of action:

- a. Length of time since offence(s);
- b. Did the offence(s) involve children and/or sexual activity and/or violence and/or acts of dishonesty;
- c. Employment history;
- d. Employee's attitude towards offence(s);
- e. Treatment, counseling or other services received since offence;
- f. Other steps taken to rehabilitate;
- g. Likelihood offence(s) will be repeated;
- h. Was alcohol or illegal drugs a factor in commission of offence(s);
- i. Degree of co-operation with this investigation;
- j. Was offence(s) committed while employed by the Board;
- k. If employee is a teacher, relevance of offence(s) to teacher duties as set out in the Education Act and Regulations;
- l. If an employee is not a teacher, relevance of offence(s) to their employment duties as set out in Board policy and the specific governing body applicable to the particular employee; and

- m. Does offence(s) require any action pursuant to The Student Protection Act (including notification to the Ontario College of Teachers)

The course of action may include action up to and including dismissal, and/or withdrawal of offer, and shall be in compliance of other Board policies, collective agreements and legislation.

CONSEQUENCES OF NON-COMPLIANCE

Employees who fail to provide a Criminal Background Check in compliance with Regulation 521/01 as amended by Regulation 322/03 may be suspended without pay pending submission of the Criminal Background Check.

Employees who fail to provide an annual Offence Declaration form by the date prescribed may be suspended without pay until the form is submitted.

CRIMINAL BACKGROUND CHECKS FOR PROSPECTIVE EMPLOYEES

All prospective employees will be required to provide, at their own expense, an original Vulnerable Sector Screening Check prior to commencing employment.

1. All applicants for employment with the Board shall be asked on their employment application form to indicate whether they have ever been convicted of a criminal offence for which a pardon has not been granted.
2. The Board shall enter into a Memorandum of Understanding with the Niagara Regional Police Service regarding the disclosure of information covered by the Memorandum of Understanding and the requirements of the Municipal Freedom of Information and Protection of Privacy Act.
3. Once an applicant for employment has been identified as a potentially successful candidate, an offer of employment may be made conditional upon the Board receiving the applicant's criminal background check results, which meets the requirements of a safe work environment as determined by the senior official in Human Resources Services.
4. The Board shall provide the prospective employee with a Police Criminal Record Check – Police Vulnerable Sector Check form, which is to be completed by the prospective employee and submitted with the applicable fee to the Niagara Regional Police Service for processing.
5. Upon receipt of his or her verification of criminal record, the prospective employee will provide the original Niagara Regional Police Service document to Human Resources Services.
6. The Human Resources Department shall review the documentation to determine whether "bona fide" reasons exist to refuse the position based on the responsibilities inherent in the position.
7. Human Resources Services shall consider the legal procedures contained in the Canadian Charter of Rights and Freedoms, the Criminal Code, the Human Rights Code, the Police Services Act, the Child and Family Services Act, the Young Offenders Act and the Municipal Freedom of Information and Protection of Privacy Act and relevant Board policies.
8. The Board's offer of employment shall be withdrawn if the candidate:
 - i. has outstanding charges or prior convictions which indicate that the candidate could pose a threat to students/staff;
 - ii. has made a false declaration in his or her application for employment; or
 - iii. declines to provide a verification of criminal record as required by Board policy.

9. The offer of employment shall be either confirmed or withdrawn or the applicant's conditional employment shall be confirmed or terminated after receipt of the criminal background check.
10. All information surrounding the Criminal Background Check, including the results, will be maintained in accordance with the Municipal Freedom of Information and Protection of Privacy Act.
11. The Board shall collect an acceptable Criminal Background Check (Vulnerable Sector Screening) before the day an individual commences employment with the Board. All offers of employment with the Board shall be conditional upon the applicant supplying an acceptable criminal background check. Human Resources Services shall facilitate the collection of an Offence Declaration from the individual by September 1 of each year in which the Board employs the individual after the year employment was commenced.
12. In exceptional circumstances, with the approval of the Director of Education and the Superintendent of Human Resources an individual may begin employment with the Board before an acceptable criminal background check is collected.

In such circumstances, the Board will require the individual to submit an Offence Declaration, pending submission of the acceptable criminal background check. Before any exception is made, a binding agreement shall be entered between the employee or any authorized representative of the employee, and the Board, ensuring that the verification will be provided without delay. This agreement will preserve the Board's right to revoke the offer of employment, and dismiss the employee, should the information provided by the employee prove to be false or misleading in any respect, or if the background check is determined to be unacceptable.

References

- [Education Act](#)
- [Regulation 521/01, as amended by Regulation 323/03](#)
- [Student Protection Act, 2002](#)
- [Teaching Profession Act](#)
- **Niagara Catholic District School Board Policies/Procedures**
 - [Access to Board Premises: Safe Schools \(302.6\) Administrative Operational Procedures](#)
 - [Accessibility Customer Service Policy \(800.8.1\)](#)
 - [Educational Field Trip \(400.2\) Administrative Operational Procedures](#)
 - [Sexual Misconduct \(201.13\) Administrative Operational Procedures](#)
 - [Volunteers in Catholic Schools \(800.9\) Administrative Operational Procedures](#)
 - [Police Protocol between the Niagara Regional Police Services and the Niagara Catholic District School Board](#)

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