



Niagara Catholic District School Board

**POLICE RECORD & VULNERABLE SECTOR CHECK
AND OFFENCE DECLARATION
(Safe Schools)**

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 Police Criminal Record Checks, Police Vulnerable Sector Checks and Offence Declarations.

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. The Board has an obligation to take all reasonable steps to ensure that employees, by virtue of their employment, constitute excellent role models and will not pose a risk or danger to students and staff.

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

Adapted from Niagara Region Police Services as per Regulation 521/01 of the Education Act, as amended by Regulation 322/03 and the Police Records Reform Act of 2015.

A Chief of Police or a member of a police service designated by a chief of police for the purposes of this Act shall conduct the following types of police record checks within six (6) months before the day the Board collects the document:

1. Police Criminal Record Check.
2. Police Criminal Record and Judicial Matters Check.
3. Police Vulnerable Sector Check.

Police Criminal Record Check

This search will include:

- Criminal convictions from the Canadian Police Information Centre (CPIC) and/or local data bases.
- Summary convictions (previous 5 years) when identified
- Findings of guilt under the Youth Criminal Justice Act within the applicable disclosure period

Police Criminal Record and Judicial Matters Check

This search will include:

- Criminal convictions from the Canadian Police Information Centre (CPIC) and or local data bases
- Summary convictions (previous 5 years) when identified
- Findings of guilt under the Youth Criminal Justice Act within the applicable disclosure period

- Outstanding entries, such as charges, warrants, judicial orders, probation, and prohibition orders

Police Vulnerable Sector Check

This search will include:

- Criminal convictions from the Canadian Police Information Centre (CPIC) and or local data bases
- Summary convictions (previous 5 years) when identified
- Findings of guilt under the Youth Criminal Justice Act within the applicable disclosure period
- Outstanding entries, such as charges, warrants, judicial orders, probation, and prohibition orders
- 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

Offence Declaration

- "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:

FOR NEW EMPLOYEES

School Based Positions

For employees being hired for school-based positions of trust and authority over children or vulnerable persons and in accordance with regulation 521/01 of the Education Act as amended by regulation 322/03, all newly hired school-based employees as a condition of employment will provide a Police Vulnerable Sector Check.

This includes but is not limited to positions such as; teachers, educational assistants, early childhood educators, secretaries, social workers, chaplains, child and youth workers, administrators, library personnel, custodial staff.

- Are required to provide an original copy which is executed within the past six months of a satisfactory vulnerable sector screening.
- This document is to be obtained by the prospective employee at their own expense and presented to Human Resources Services.
- In exceptional circumstances, with the approval of the Director of Education and the Executive Officer of Human Resources Services, 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 sign a waiver form as submission of 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.

Non School Based Positions

For employees being hired for non-school-based positions and in accordance with regulation 521/01 of the Education Act as amended by regulation 322/03, all newly hired non-school-based employees as a condition of employment will provide a Police Criminal Record and Judicial Matters Check.

This includes but is not limited to positions such as administration, finance, information technology services, maintenance staff, human resources, and communications.

- Are required to provide an original copy, which is executed within the past six months of a satisfactory Police Criminal Record Check.

- b. This document is to be obtained by the prospective employees at their own expense and presented to Human Resources Services.
- c. In exceptional circumstances, with the approval of the Director of Education and the Executive Officer of Human Resources Services, 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 sign a waiver form as submission of an Offence Declaration, pending submission of the acceptable Police Criminal Record 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.

ELIGIBILITY FOR EMPLOYMENT

- a. The purpose of the requirement to obtain a Police Vulnerable Sector Check or a Police Criminal Record and Judicial Matters Check is to determine whether a person has a record of offences, which would make them unsuitable as an employee. To further specify, but not to limit this purpose, the Board will not knowingly employ any person with a record of criminal conviction for which a pardon has not been granted for the following offences but not limited to:
 - Any sexual offence under the Criminal Code of Canada;
 - Any violations under the Narcotic Control Act or the Food and Drug Act;
 - Any criminal offence which relates directly or indirectly to a person who is less; than 18 years of age, or in the case of a person who has Special Needs, 21 years old or less;
 - Crimes of violence which include, but are not limited to, threats, assaults, use, possession or concealment of a weapon or imitation of a weapon;
 - Propagation of hate literature or incitement to hatred;
 - Possession, distribution, or sale of any pornographic or violent material.
- b. The appropriate Board personnel will examine the Police Criminal Record Check, Police Vulnerable Sector Check, or a Police Criminal Record and Judicial Matters Check to identify areas of concern. Persons with a criminal record who are otherwise suitable shall not be automatically disqualified. Mitigating circumstances will be assessed before a final decision with respect to suitability is made. The following factors shall be considered, where applicable:
 - The risk posed to students, employees and Board property and equipment;
 - The specific duties and responsibilities of the position in question and the relevance of the criminal charge(s)/conviction(s) to that position;
 - The length of time since the conviction(s);
 - Rehabilitative or other efforts undertaken.
- c. The Board will not employ persons who have criminal records and/or patterns of behaviour that may place students and/or staff at risk.

REQUIREMENTS FOR EXISTING EMPLOYEES

All existing employees in accordance with regulation 521/01 of the Education Act requires the Board to collect Offence Declarations on an annual basis. The purpose of an Offence Declaration is to determine whether a person has been charged or convicted of an offence within the previous 12-month period which would make them unsuitable as an employee.

- a) All employees must complete an Offence Declaration through the employee portal prior to June 30th annually. However, should an employee be charged of an offence in advance of the Offence Declaration date, they are required to report the charge immediately upon receipt directly to the Executive Office of Human Resources Services for consideration of risk to the safety of students and/or staff.
- b) Human Resources Services shall consider the legal procedures contained in the *Canadian Charter of Rights and Freedoms*, the *Criminal Code*, the *Ontario Human Rights Code*, the *Police Services Act*, the *Child and Family Services Act*, the *Youth Criminal Justice Act* and the *Municipal Freedom of Information and Protection of Privacy Act* and relevant Board policies.
- c) Niagara Catholic District School Board will not continue to employ, persons who have criminal records and/or patterns of behaviour that may place students and/or staff at risk.

RETENTION OF DOCUMENTATION

The Board shall retain an *original or a true copy*, in the matter to which it has been issued, of the Police Criminal Record Check, Police Vulnerable Sector Check, Police Criminal Record and Judicial Matters Check, and the Offence Declaration in Human Resources Services.

CONSEQUENCES OF NON-COMPLIANCE

New Employees who fail to provide a Police Criminal Record Check, Police Vulnerable Sector Check or Police Criminal Record and Judicial Matters Check in compliance with Regulation 521/01 as amended by Regulation 322/03, will have the offer of employment revoked, and be dismissed from the Board.

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

Existing Employees who fail to disclose any charges immediately upon receipt may be terminated.

POLICE VULNERABLE SECTOR CHECKS FOR SERVICE PROVIDERS

A service provider is an individual who is not an employee of the Board and in the normal course of providing goods or services under contract with the Board or carrying out their employment functions as an employee of a person who provides goods or services under contract with the Board or Ministry of Education. The definition of "others" extends the requirement of a Police Vulnerable Sector Check to individuals who provide goods or services without a formal contract with the Board.

1. The Board will not allow school access to service providers or "others" who have direct and regular contact with students if they have not provided a Police Vulnerable Sector Check, or have provided a Police Vulnerable Sector Check, which has been adjudicated and found to present an unacceptable risk to students and/or staff.
2. School Administrators, Managers and Supervisors have the authority to request any service provider to produce a Police Vulnerable Sector Check to ensure compliance with this Policy and the statutory Regulations.
3. The Board will determine who is a service provider who may come into direct contact with students on a regular basis, and who is required to produce a Police Vulnerable Sector Check.
4. The Board will include provisions in the Request for Proposal/Tender/Quotations that notify potential service providers of the requirements to obtain Police Vulnerable Sector Checks and annual Offence Declarations thereafter.

POLICE VULNERABLE SECTOR CHECKS FOR VOLUNTEERS AND INDIVIDUALS REQUIRING A PLACEMENT FOR PROFESSIONAL CERTIFICATION

The Board will not allow school access to volunteers nor individuals requiring a placement for professional certification, or “others” who have direct and regular contact with students if they have not provided a Police Vulnerable Sector Check, or have provided a Police Vulnerable Sector Check that has been adjudicated and found to present an unacceptable risk to students and/or staff.

RETENTION OF DOCUMENTATION FOR VOLUNTEERS AND INDIVIDUALS REQUIRING A PLACEMENT FOR PROFESSIONAL CERTIFICATION

The Board shall retain an original or a true copy, in the matter to which it has been issued, of the Police Vulnerable Sector Check, in the school location of the volunteer or individual requiring a placement for professional certification, for the matter to which it has been issued.

References

- [Education Act](#)
- [The Canadian Charter of Rights and Freedoms](#)
- [The Ontario Human Rights Code](#)
- [The Child and Family Services Act](#)
- [Youth Criminal Justice Act](#)
- [Regulation 521/01, as amended by Regulation 323/03](#)
- [Student Protection Act, 2002](#)
- [Teaching Profession Act](#)
- [Police Records Check Reform Act 2015](#)
- [Regulation 521/01s.2\(1\)](#)
- [Niagara Regional Police Services - Police Record Checks](#)
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- *Niagara Catholic District School Board Policies/Procedures*
 - [Access to Board Premises: Safe Schools \(302.6\) AOP](#)
 - [Accessibility Customer Service Policy \(800.8.1\)](#)
 - [Educational Field Trip \(400.2\) AOP](#)
 - [Sexual Misconduct \(201.13\) AOP](#)
 - [Volunteering in Catholic Schools \(800.9\) AOP](#)
 - *Police Protocol between the Niagara Regional Police Services and the Niagara Catholic District School Board*
 - *Protocol between Family and Children Services and the Niagara Catholic District School Board*

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June 17, 2014
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