

CRIMINAL BACKGROUND CHECKS

Statement of Policy

The Peel District School Board has the responsibility, under law, to provide a safe and secure working and learning environment for students and employees. The Board is in a position of trust with regard to students and must protect their intellectual, physical, mental, and emotional well-being.

This policy is aligned with and supports the principles and expectations of the Board's Human Rights policy (Policy 51) and the Equity and Inclusive Education policy (Policy 54). At all times, this policy should be interpreted to be consistent with the Board's policies and the *Human Rights Code*.

Criminal Background Checks

The Board must ensure that applicants for employment, volunteers, service providers, individuals requiring a placement for professional certification, and others, have not been convicted of criminal offences that would, if repeated, compromise the safety and well-being of students or other employees. Since September 1, 2000, the Board has required that all new employees provide both a Criminal Background Check and an External Applicant Disclosure Form prior to commencing employment with the Board. This requirement has since been reinforced under Regulation 521/01 (as amended), made under the Education Act. This regulation added a further requirement for the Board to collect Offence Declarations annually for both employees and service providers, and prior to employee transfers. Additionally, the Board must comply with the Youth Criminal Justice Act and any other legislation related to Criminal Background Checks.

Subject to legislation, all new employees, individuals requiring a placement for professional certification, volunteers, service providers, and others are required to provide an original Criminal Background Check that is satisfactory to the Board prior to the commencement of any duties, the provision of any services, or placement. The Criminal Background Check must have been executed by a police service within the six months immediately preceding receipt and include a vulnerable sector screening (including pardoned sexual offences). Any cost related to obtaining the Criminal Background Check is the sole responsibility of the individual. In addition to the Criminal Background Check, potential new employees are also required to submit an External Applicant Disclosure Form that is satisfactory to the Board.

If the individual is ordinarily a resident outside of Canada and/or is working outside of Canada at the time of application, he or she is required to submit an original Criminal Background Check from the jurisdiction where he or she resides and/or works (the "International Criminal Background Check"). This International Criminal Background Check must have been completed by the local authorities within the six months immediately preceding receipt and include a vulnerable sector screening, or an equivalent screening, where applicable. This requirement is in addition to the requirements outlined above.

The original copy of the Criminal Background Check (and International Criminal Background Check, where applicable), and any additional information requested, will become the property of the Board, and will not be returned, copied or forwarded to any other institution or individual except to the extent required or permitted by law.

With respect to volunteers, it is the responsibility of the principal, who under the *Education Act* is in charge of instruction, organization and management of a school to determine what activities the volunteers participate in, with which students and in which setting. It is also recognized that principals and teachers have a duty of care to their students. Duty of care is the legal principle which identifies the obligation to exercise reasonable care including the protection from harm.

The Criminal Background Check is a step in the Board's duty of care should direct and regular contact occur between a volunteer and a student. In this case, the above requirements for submitting a satisfactory Criminal Background Check will apply.

In addition to providing an initial satisfactory Criminal Background Check (and International Criminal Background Check where applicable) all employees, volunteers, service providers, individuals requiring a placement for professional certification, and others are also required to submit an annual Offence Declaration as prescribed by the Board. All such individuals must also ensure that disclosure of criminal convictions as required by legislation or by third party agencies, i.e. professional associations, government ministries, etc. is made within the timelines prescribed by legislations, the third party agency or otherwise.

The Board in its discretion may require an employee, volunteer, service provider and/or other to submit an updated Criminal Background Check if the Board has reason to believe that there may have been a change to the last record on file.

The Peel District School Board will not knowingly offer the opportunity for new or continued employment, or to volunteer, or provide a service, or any other opportunities to any person with a record of criminal conviction, for which a pardon has not been granted, for the following types of offences:

1. any sexual offence under the Criminal Code of Canada, committed against a child under 16 years of age, including but not limited to namely, sexual interference, invitation to sexual touching, incest, bestiality, parent/guardian procuring sexual activity, householder permitting sexual activity, corrupting children, indecent act, keeping common bawdy house, procuring, offence in relation to prostitution, or any other offences which may be created at future date of a similar nature;
2. sexual exploitation;
3. sexual assault;
4. trafficking in or importing for the purpose of trafficking a narcotic under the Narcotic Control Act or a controlled or restricted drug under the Food and Drug Act or any related criminal offence;
5. any offence which may pose a risk to the well-being of any of the Board's students or staff.

While the convictions above will result in an absolute restriction to school/board access, the Board does recognize the principle of rehabilitation.

In making a final decision, any mitigating circumstances must be assessed, and the following factors would be considered where applicable:

- the specific duties and responsibilities of the position in question and the relevance of the criminal charge(s) and convictions to the particular position;
- the length of time since the conviction;
- rehabilitative or other efforts undertaken (treatment, counselling, etc.);
- a discharge or statements regarding probation, and if appropriate;
- appreciable risk to the safety or security of students, employees, volunteers or board property and equipment;
- any involvement of children; sexual activity; violence, and/or acts of dishonesty in the Offence;
- the employment history (if applicable);
- the individual's attitude towards the offence(s);
- the degree of co-operation with the investigation;
- if the offence(s) was committed while employed by the Board.

Consequences of Non-compliance

Until such time as an individual has provided all the documentation with respect to the Criminal Background Check/Offence Declaration requirements including the submission of any additional supporting documentation requested by the Board no later than the date prescribed by the Board, the consequences of non-compliance are as follows:

- Potential new employees will have their start date delayed or their offer of employment withdrawn.
- Employees may be suspended without pay until the requested documentation is received and pending the results of any investigation, if necessary. The course of action may also include disciplinary action 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.
- Individuals requiring a placement for professional certification will be restricted from commencing their placement.
- Volunteers will be restricted from volunteering.
- Service Providers/Others will be restricted from providing goods and/or services to the Board.

Policy #68 - Interim Policy on Criminal Records Checks For New Employees/Volunteers

Approved May 9, 2000

Policy #68 – Criminal Records Checks

Approved February 25, 2003 (*replaces* Interim Policy on Criminal Records Checks for New Employees/Volunteers)

Policy #68 – Criminal Record Checks

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