



Brant Haldimand Norfolk Catholic District School Board

POLICY: CRIMINAL BACKGROUND CHECKS

Adopted:	02/22/05	Policy No:	300.15
Revised:	06/22/10	Policy Category:	Human Resources

Belief Statement:

The Brant Haldimand Norfolk Catholic District School Board has the responsibility, under The Education Act, 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 strive to protect their intellectual, physical, mental and emotional well being.

Policy Statement:

The Brant Haldimand Norfolk Catholic District School Board will not hire or continue to employ persons who have criminal convictions and/or patterns of behaviour which place students or staff at risk.

The Brant Haldimand Norfolk Catholic District School Board will not allow school access to *Service Providers* or *Others* who have direct and regular contact with students:

- who have not provided a Criminal Background Check, or
- who have provided a Criminal Background Check which has been adjudicated and found to present an unacceptable risk to students and/or staff.

Glossary of Key Policy Terms:

Criminal Background Check

A document concerning an individual which:

- a) was prepared by a police force or service from national data on the Canadian Police Information Centre (CPIC) database within six months before the day the OESC collects the document on behalf of the Board; and
- b) provides information concerning the individual's police record, including Criminal Code (Canada) convictions, pardoned sexual offences, records of convictions under the Controlled Drugs and Substances Act, Narcotic Control Act and Food and Drugs Act and all outstanding warrants and charges.

Offence Declaration

A written 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:

- a) 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,
- b) for which a pardon under Section 4.1 of the Criminal Records Act (Canada) has not been issued or granted.

Service Provider

An individual who is not an employee of the Board and who comes into direct contact with pupils on a regular basis in the normal course of:

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

Identification Card

A wallet-sized card, issued by OESC for a three-year period ending December 31, 2006 to an individual Service Provider who has been determined to present no unacceptable risk to students who may attend school property and come in direct and regular contact with students.

Statutory/Regulatory/Related Board Policy Linkages:

Regulation 521/01, as amended by Regulation 323/03

Hiring - Support Staff Policy

Hiring Academic Staff Policy

Pre-Employment Screening Policy

Criminal Records Act

Volunteer Policy

Security of Schools, Buildings and Grounds Policy

Municipal Freedom of Information & Protection of Privacy Act

Safe Schools Act, Regulation 521/02



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ADMINISTRATIVE PROCEDURES: CRIMINAL BACKGROUND CHECKS

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A. CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES

All current employees will provide an annual Offence Declaration in accordance with Regulation 521/01, as amended by Regulation 323/03.

All new employees will be required to provide, at their own expense, an original Criminal Background Check.

Requirements

The *Collection of Personal Information Regulation* will require the Brant Haldimand Norfolk Catholic District School Board to do the following:

1. Current Employees

Are required to provide to the Board an Offence Declaration by September 1st of each year in which the individual is employed by the Board.

2. New Employees

a) Condition of Employment

The Board shall collect a Criminal Background Check in respect of the individual before the day the individual commences employment with the Board. All offers of employment with the Board shall be conditional upon the applicant supplying the required Criminal Background Check. The Board shall collect an Offence Declaration from the individual by September 1st of each year in which the individual is employed by the Board after the date of hire.

b) Emergency Provision

Normally, a candidate shall not commence employment with the Board until the current verification of their Criminal Background Check has been submitted and accepted. Only in an exceptional case will a person be permitted to commence employment with the Board before the Board has received the Criminal Background Check. 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 prior to the submission of the Criminal Background Check. Before any such exception is made, a binding agreement shall be entered into between the employee, ensuring that the Criminal Background Check be provided without delay and in a timely manner. This agreement will preserve the Board's power to revoke the offer of employment, and dismiss the employee, should the Offence Declaration provided by the employee prove to be false or misleading in any respect.

Retention

The Board shall retain an original or a true copy taken from the original by the Board designated contact or designate. Completed Criminal Background Checks and Offence Declarations will be filed in a separate and secure location.

Adjudication

Where evidence is received of a criminal conviction or other relevant conviction, the designated Board contact will consider at least the following factors in determining an appropriate course of action:

- the length of time since offence(s);
- any involvement of children and/or sexual activity and/or violence and/or acts of dishonesty in the offence(s);
- the employment history;
- the employee's attitude towards offence(s);
- any treatment, counseling or other services received since offence;
- other steps taken to rehabilitate;
- any likelihood offence(s) will be repeated;
- if alcohol or illegal drugs were a factor in commission of offence(s);
- the degree of cooperation with this investigation;
- if the offence(s) committed while employed by the Board;
- if the employee is a teacher, relevance of offence(s) to teacher duties as set out in the Education Act and Regulations;
- if employee is not a teacher, relevance of offence(s) to their employment duties; and
- whether the offence(s) require any action pursuant to The Student Protection Act (including notification of the Ontario College of Teachers).

The course of action may include disciplinary 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 signed Offence Declaration Form by the date prescribed by the Board may be suspended without pay until the form is received.

B. CRIMINAL BACKGROUND CHECKS FOR SERVICE PROVIDERS

The Board will contract with the Ontario Education Services Corporation (OESC), a non-profit company established by the four School Boards' Associations in Ontario and the Council of Directors of Education, to collect and adjudicate Criminal Background Checks on all Service Providers and employees of Service Providers who are identified by the Board as potentially coming into direct and regular contact with students.

Requirements

Board staff will:

- a) include language similar to the following in any new Request for Proposal/Tender/Quotation of Contract:

"The Bidder acknowledges receipt of a copy of Regulation 322/03 (Collection of Personal Information) to the Education Act (Ontario) with respect to Criminal Background Checks and offence declarations. If required by the Board, the successful Bidder covenants and agrees to assist the Board in complying with same by providing the Board, or such other entity as the

Board may designate, with a criminal background check covering offences under the Criminal Code, the Controlled Drugs and Substances Act and any other offences which would be revealed by a search of the automated Criminal Records Retrieval System maintained by the RCMP ("Criminal Background Check")

For the purpose of this Request for Proposal/Tender/Quotation, the Board shall determine in its sole and unfettered discretion whether an individual or employee of the successful Bidder may come into direct contact with pupils on a regular basis.

The successful Bidder further acknowledges and agrees that the contract between the Board and the successful Bidder to be entered into pursuant to the terms hereof shall contain provisions of indemnification and provisions allowing the Board to terminate same in the event the successful Bidder fails to provide the Board with a Criminal Background Check for every individual or employee who may come into direct contact with pupils on a regular basis at a school site of the Board, prior to the occurrence of such possible direct contact.

In addition, the contract will contain provisions that will allow the Board, or such other entity as the Board may designate, upon review of the Criminal Background Check provided, to determine that an individual or employee will not be permitted on Board property or to volunteer on Board-sponsored events in circumstances where direct contact with students is probable. A copy of the Board's policy, *Criminal Background Checks* is available on the Board's website (www.bhncdsb.ca) or in print upon request."

- b) ensure that all Service Providers are in compliance with Regulation 322/03 before providing services to the Board.
- c) develop a procedure for regularly, as required updating the Service Provider list, communicating this information to OESC and informing new Service Providers about the requirements.
- d) develop a procedure for checking Identification Cards (and photo identification) of Service Providers by school officials on a regular basis.

Adjudication

OESC will use a panel of experts to screen Service Provider employees who have Police Records. OESC will use published screening criteria and adjudication procedures which will strive to ensure provincial consistency in adjudication. All decisions of OESC will be final.

Consequences of Non-Compliance

A Service Provider who fails to comply with the Criminal Background Check requirements of the Board through OESC will be barred from providing goods and/or services to the Board.

C. CRIMINAL BACKGROUND CHECKS FOR OTHERS HAVING DIRECT AND REGULAR CONTACT WITH STUDENTS

In order to meet legislative requirements to collect Criminal Background Checks from all individuals who have direct and regular contact with students and further the effort to ensure the safety of students and minimize potential Board liability, the Board will collect and adjudicate Criminal Background Checks on individuals in this category and who have been identified by the Board as potentially coming into direct and regular contact with students.

Included in this category are the following:

- a) Provincial organizations that provide services to schools, but who are not Service Providers as defined in the regulation (including but not limited to) and who are not exempt from these requirements as the organization has standards and practices in place which meet or exceed those of the Board.

Based on organizational standards, employees of the following organizations will not be required to present a Criminal Background Check as long as they provide a valid organization issued photo-identification card clearly identifying them as an employee of the organization:

1. Public Health Departments
 2. Victorian Order of Nurses
 3. Community Care Access Centres
 4. Children's Mental Health Ontario
 5. Provincial Schools Authority
 6. Day Nurseries
 7. Children's Aid Societies
 8. St. John's Ambulance
 9. Big Brothers of Canada
 10. Big Sisters of Canada
- b) Trustees will provide a criminal background check at the beginning of each term prior to the Inaugural Meeting.
- c) Students attending university or college programs which require practicum or cooperative placements in schools.
- d) School volunteers will provide a criminal background check every three years and an offence declaration at the beginning of each school year other than years when they are required to provide a criminal background check.
- e) Persons 18 years of age or over having direct and regular contact with students¹
- f) Parish priests and other parish personnel will provide confirmation from the Bishop that an acceptable criminal background check is on file with the Diocese.

Requirements

Board staff will:

- a) Ensure that all *Others* are in compliance with Regulation 322/03.
- b) Develop a procedure for regularly, as required, updating the *Others* list and informing new *Others* about the requirements.
- c) Ensure that persons who have not provided services to the Board for more than 12 months shall obtain an updated Criminal Background Check.

Adjudication

Where evidence is received of a criminal conviction or other relevant conviction, the designated Board contact will consider at least the following factors in determining an appropriate course of action:

- the length of time since offence(s);
- any involvement of children and/or sexual activity and/or violence and/or acts of dishonesty in the offence(s);
- the person's attitude towards offence(s);
- any treatment, counseling or other services received since offence;
- other steps taken to rehabilitate;
- any likelihood offence(s) will be repeated;

¹The Youth Criminal Justice Act protects the privacy of minors by limiting access to their records. It is recommended therefore that a Service Provider or "Other" who has not attained the age of 18 be directly supervised by a staff member when in contact with students.

- if alcohol or illegal drugs were a factor in commission of offence(s);
- the degree of cooperation with this investigation;

Consequences for Non-Compliance

Any *Other* who fails to comply with the Criminal Background Check requirements of the Board will be denied school access pending compliance.

Fees for Criminal Background Checks

Pursuant to this Policy, the Board will reimburse the cost of fees paid to police departments for the completion of Criminal Background Checks required of volunteers.