



# Learning Environment Criminal Background Check

Policy Number LE-01

The Simcoe Muskoka Catholic District School Board is responsible for providing a safe and secure working and learning environment for students and employees. The Board is in a position of trust and must protect the well being of students and employees. The Simcoe Muskoka Catholic District School Board will comply with the requirements for the collection of personal information as described in Ontario Regulation 521/01 of the Education Act. The Board shall not employ or continue to employ persons who have a criminal record wherein the record demonstrates an unacceptable level of risk to the Board, its students and/or its employees.

## Procedural Guidelines Follow

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## Procedures and Guidelines Supporting Policy Number LE-01

### Criminal Background Check

#### 1. CRIMINAL BACKGROUND CHECKS FOR CURRENT EMPLOYEES

All current employees will provide a Criminal Background Check in accordance with *Ontario Regulation 521/01*.

*The check must be dated within 6-months of the employee's start date and be produced by a police force or 3rd party provider used by a police force (e.g. Triton).*

##### 1.1 Requirements

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

##### 1.2 Criminal Background Checks for Prospective Employees, Service Providers or Services of a Volunteer

- a) An offer of employment, the awarding of a service contract to a service provider or the acceptance of the services of a volunteer is conditional upon the receipt of a satisfactory CRJMC or VSC (as applicable) Criminal Background Check.
- b) For new employees/applicants, service providers and volunteers, the CRJMC or VSC (as applicable) Criminal Background Check must be obtained through the local or regional police services department in the area in which the individual resides. The cost of the Criminal Background Check is the sole responsibility of the employee/applicant.
- c) Upon receipt of their verification of criminal record, the prospective employee, service provider or volunteer will provide the original document to the Board's Human Resources Department.
- d) 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.
- e) Respecting the Board's legal responsibilities, the Human Resources Department shall consider the legal guidelines 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*, the *Education Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.

- f) The Board's offer of employment **or offer to volunteer** shall be withdrawn if the candidate:
- Has outstanding charges or prior convictions which indicate that the candidate could pose a threat to students/staff;
  - Has made a false declaration in **their** application for employment; or
  - Declines to provide a verification of criminal record as required by Board policy.
- g) 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 CRJMC or VSC (as applicable) criminal background check.
- h) All information surrounding the CRJMC or VSC (as applicable) Criminal Background Check, including the results, will be maintained in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*.
- i) If the individual commences employment after July 31, 2003 the Board shall collect an acceptable CRJMC or VSC (as applicable) before the day the individual commences employment with the Board. All offers of employment with the Board shall be conditional upon the applicant supplying an acceptable CRJMC or VSC (as applicable). The Human Resources Department shall facilitate the collection of an AOD Offence Declaration from the individual by September 1st of each year in which the Board employs the individual after the year employment was commenced.
- j) In exceptional circumstances it may be necessary for an individual to begin employment with a Board before an acceptable CRJMC or VSC (as applicable) criminal background check is collected. In such circumstances, the Board will require the individual to submit an AOD Offence Declaration, pending submission of the acceptable CRJMC or VSC (as applicable) criminal background check. Before any exception is made, a binding agreement shall be entered into 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 without further notice or any other entitlements whatsoever, 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.

### 1.3 Current employees

- a) Once a CRJMC or VSC is received by a new employee or volunteer, an Annual Offence Declaration (AOD) may be completed annually thereafter.
- b) Human Resources will send out AODs annually with a timeline for staff and volunteers to complete.
- c) A deadline for the AOD completion is given each year. Failure to sign off the AOD by the deadline may result in termination of employment.
- d) It is a serious matter to make a false statement on an AOD. An employee who knowingly makes a false statement will be subject to disciplinary action up to and including discharge from employment.
- e) The Board reserves the right to request a CRJMC or VSC (as applicable) rather than an AOD. The Board may also request a CRJMC or VSC (as applicable) at any time if there is reason to believe the employee/volunteer has received a criminal conviction.

## 2. RETENTION

The Board shall retain an original or a true copy taken from the original CRJMC or VSC (as applicable). Completed checks and AODs will be filed in a separate and secure location in accordance with *Ontario Regulation 521/01*.

## 3. ADJUDICATION

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, counselling 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 cooperation with this investigation;
- j. was offence(s) committed while employed/volunteer with 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 employee is not a teacher, relevance of offence(s) to their employment duties; 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 disciplinary action up to and including dismissal, and/or withdrawal of offer, and shall be in compliance with other Board policies, collective agreements and legislation.

#### 4. CONSEQUENCES OF NON-COMPLIANCE

Employees who fail to provide a CRJMC or VCS (as applicable) in compliance with *Ontario Regulation 521/01* may be disciplined up to and including dismissal pending submission of the Criminal Background Check. Employees who fail to provide a signed AOD form by the date prescribed may be disciplined up to and including dismissal until the form is submitted.

#### 5. DEFINITIONS

"*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.

"Criminal Record and Judicial Matters Check (CRJMC)" is for those seeking employment or volunteer positions with agencies who require a criminal record check.

##### 5.1 What does it include?

- criminal convictions
- findings of guilt under the Youth Criminal Justice Act (YCJAQ) within the applicable disclosure period
- outstanding entries, such as charges and warrants, judicial orders, Probation and Prohibition Orders. As per CPIC policy, information obtained from the Investigative Data bank must be confirmed and authorized for release by the contributing agency.

- absolute and conditional discharges for one or three years respectively.

Examples of positions that may require this type of check: ICT, HR, Finance, Communications, Maintenance Staff, Custodians.

"*Annual Offence Declaration (AOD)*" 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:

- 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.

"*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.

"*Service Provider*" means an individual (not an employee) who comes into direct contact with students on a regular basis:

- a. at a school site of a Board in the normal course of,
  - i. providing goods or services under contract with the Board,
  - ii. carrying out his or her employment functions as an employee of a person who provides goods or services under contract with the Board, or
  - iii. providing services to a person who provides goods or services under contract with the Minister or,
- b. at a school under the jurisdiction of the Minister in the normal course of,
  - i. providing goods or services under contract with the Minister,
  - ii. carrying out his or her employment functions as an employee of a person who provides goods or services under contract with the Minister, or
  - iii. providing services to a person who provides goods or services under contract with the Minister.

"*Volunteer*" means a non-employee who may have direct regular contact with students under low or no direct supervision by the principal or another staff member, or may not have direct contact with students.



*“Vulnerable Sector Check (VSC)” screens those working or volunteering with vulnerable persons. A vulnerable person is someone who is:*

- in a position of dependence on others
- at a greater risk than the general population of being harmed by a person in a position of authority or trust due to their age, a disability or other circumstances (temporary or permanent)

Fingerprints are required for some VSCs.

What does this check cover?

- criminal convictions
- findings of guilt under the Youth Criminal Justice Act (YCJA) within the applicable disclosure period
- outstanding entries, such as charges, warrants, judicial orders, Peace Bonds, Probation and Prohibition Orders
- absolute and conditional discharges for one or three years respectively
- disposition of Not Criminally Responsible by Reason of Mental Disorder
- criminal charges resulting in dispositions and non-conviction including (but not limited to): Stayed, Withdrawn, Dismissed, Not Guilty, and cases of not criminally responsible by reason of mental disorder as listed on local police indices in accordance with federal and provincial legislation
- all record suspensions authorized for release by the Minister of Public Safety and Emergency Preparedness

*Example of positions that require this type of check are: Principals, Vice Principals, Teachers, EA’s, DECE, school counsellors, or any position that works directly with students.*



SIMCOE MUSKOKA CATHOLIC  
DISTRICT SCHOOL BOARD

References:

Police Record Checks Reform Act, 2015.S.O. 2015.c.30  
Canadian Charter of Rights and Freedoms  
Criminal Code (RSC, 1985, C-47)  
Criminal Records Act, 1985  
Municipal Freedom of Information and Protection of Privacy Act. (RSO 1990, cM.56)  
Ontario Human Rights Code,1990  
Ontario Regulation 521/01 Collection of Personal Information  
Student Protection Act, 2002  
The Child and Family Services Act, 1990  
The Police Services Act, 1990  
Youth Criminal Justice Act (S.C. 2002, c.1)

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