



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 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 students and/or employees.

Procedural Guidelines Follow

Approved: Board Meeting #26-2003 (October 29, 2003)
Revised: Board Meeting #08-2004 (Wednesday, March 31, 2004)
Revised: Board Meeting #05-2015 (Wednesday, March 25, 2015)

Procedures and Guidelines Supporting Criminal Background Check

Policy Number LE-01

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.

"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:

- 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 will have direct regular contact with students under low or no direct supervision by the principal or another staff member.

Criminal Background Checks for Current Employees

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

Requirements

The "Collection of Personal Information Regulation" will require the Simcoe Muskoka 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 01, 2002, the Board shall collect an Offence Declaration from the individual by September 01 of each year in which the individual is employed by the Board after that day, commencing in 2004.
- b. If the employee commenced employment with the Board prior to July 1, 2003 and is not an individual described in paragraph (a), the Board shall collect:
 - i. a Criminal Background Check (CBC) 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.

- c. It is a serious matter to make a false statement on an Offence Declaration. An employee who knowingly makes a false statement will be subject to disciplinary action up to and including discharge from employment.

Retention

The Board shall retain an original or a true copy taken from the original criminal background 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.

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 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 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 of other Board policies, collective agreements and legislation.

Consequences of Non-Compliance

Employees who fail to provide a Criminal Background Check by July 31, 2003 in compliance with 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 Offence Declaration form by the date prescribed may be disciplined up to and including dismissal until the form is submitted.

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 Criminal Background Check.
- b) For new employees/applicants, service providers and volunteers, the 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 his or her 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 Human Rights Code, the Police Services Act, the Child and Family Services Act, the Young Offenders Act, the Education Act and the Municipal Freedom of Information and Protection of Privacy Act.
- f) The Board's offer of employment shall be withdrawn if the candidate:
- g) has outstanding charges or prior convictions which indicate that the candidate could pose a threat to students/staff;

- h) has made a false declaration in his or her application for employment; or
- i) declines to provide a verification of criminal record as required by Board policy.
- j) 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.
- k) 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.
- l) If the individual commences employment after July 31, 2003 the Board shall collect an acceptable Criminal Background Check 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 criminal background check. The Human Resources Department shall facilitate the collection of an Offence Declaration from the individual by September 01 of each year in which the Board employs the individual after the year employment was commenced.
- m) In exceptional circumstances it may be necessary for an individual to begin employment with a 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 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.

Approved: Board Meeting #26-2003 (October 29, 2003)

Revised: Board Meeting #08-2004 (Wednesday, March 31, 2004)